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ABSTRACT

Based on a survey of 17 institutions in 14 States and the Federal Bureau of Prisons, the study is the first effort to date to evaluate and compare the impact of correctional grievance mechanisms. "Mechanism" is used in a generic sense throughout this study and maybe defined as any administrative process through which the complaints of inmates are expressed and resolved. Through its own earlier work in the design, implementation and evaluation of grievance mechanisms, the Center for Correctional Justice identified three basic types of mechanisms: ombudsmen, grievance procedures, and inmate councils. At each institution, researchers interviewed administrators, staff, and inmates. They administered questionnaires to inmates, observed grievance proceedings, and where available, examined records. The result is a comprehensive guide for designing and implementing equitable grievance procedures which should aid correctional administrators in fashioning an improved grievance process. (Appended material includes: brief descriptions of the 16 mechanisms surveyed for the study; questionnaire and tabulated responses; and, a list of sample training materials and case studies available from the Center for Correctional Justice.) (Author)

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GRIEVANCE MECHANISMS IN CORRECTIONAL INSTITUTIONS

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FOREWORD

In the mid-sixties, the President's Commission on Law Enforcement and Administration of Justice urged correctional agencies to establish just and effective procedures for dealing with prisoner grievances. Since then, growing numbers of corrections administrators have begun to recognize and respond to the need to safeguard offenders' rights.

When the National Advisory Commission on Criminal Justice Standards and Goals in 1973 cited fair grievance procedures as a prerequisite for avoiding violence in institutions, it addressed an audience already largely committed to the principle, but uncertain as to how to devise workable grievance mechanisms. To bridge this gap, the National Institute is publishing this handbook as part of its Prescriptive Package series, which provides background information and program guidelines on significant criminal justice topics.

Based on a survey of 17 institutions in 14 states and the Federal Bureau of Prisons, the study is the first effort to date to evaluate and compare the impact of correctional grievance mechanisms. At each institution, researchers interviewed administrators, staff and inmates. They administered questionnaires to inmates, observed grievance proceedings and, where available, examined records. The result is a comprehensive guide for designing and implementing equitable grievance procedures which should aid correctional administrators in fashioning an improved grievance process.

GERALD M. CAPLAN,
Director
National Institute of Law
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ACKNOWLEDGEMENT

The Center for Correctional Justice would like to express its deep appreciation to the administrators, staff members and inmates whose cooperation made this volume possible. Each group responded with candor and enthusiasm to our request for help in developing guidelines for other correctional institutions about to adopt some form of grievance mechanism. In each institution we visited we encountered a genuine desire to share experiences and help others avoid inevitable pitfalls.

The creation of effective grievance mechanisms represents a relatively new development in corrections, and the institutions we visited are experimenting in uncharted waters. The willingness of people to describe their efforts, air their problems and explain their successes represents a valuable contribution to the proliferation of effective grievance mechanisms. Any criticisms of particular mechanisms that appear in this volume are designed to help administrators avoid common problems, not to denigrate efforts to introduce an extremely difficult correctional and bureaucratic reform.

Our special thanks go to George Nicolau of the Institute for Mediation and Conflict Resolution, Paul Estaver of the National Center for Dispute Settlement, and Allen Breed of the California Youth Authority for reading our text and making useful suggestions for its improvement. Our project monitors at the National Institute of Law Enforcement and Criminal Justice, Mary Ann Beck and Lou Biondi, were unfailingly supportive and encouraging.

LINDA R. SINGER
Executive Director
Center for Correctional Justice
April 28, 1975

CHAPTER I. INTRODUCTION

In its examination of the causes of the Attica prison riot, the McKay Commission cited a dreary record of disregard of legitimate grievances arising from inadequate medical care, food and recreational facilities; "barriers to all forms of communication with the outside world"; rules that were "poorly communicated, often petty, senseless, or repressive and . . . selectively enforced"; and a relationship between most correctional officers and inmates that was "characterized by fear, hostility, and mistrust, nurtured by racism."[1] For some correctional administrators unimpressed by these conclusions and the critical need for improved responsiveness to internal and external demands for change, the events of the last few years have been costly.

Relentlessly since Attica, correctional news has been punctuated by reports of grievance negotiations between inmates and administrators conducted in an atmosphere of violence and constraint. A partial review of these reports indicates that in 1972 the Director of the District of Columbia Department of Corrections spent three days negotiating in the prison yard, at times in a driving rain, with striking inmates protesting conditions and policies at the District's Lorton Reformatory; in 1973 in a protest against conditions in the institution, the Oklahoma State Prison at McAlester was destroyed, leaving three inmates dead and $20,000,000 in damages; in late 1974, after a peaceful interlude of 14 months, Walpole State Prison in Massachusetts erupted again in violence as insurgent inmates seized three hostages and presented a list of 18 demands for prison improvement.

The absence of grievance mechanisms did not cause these disturbances, but that absence, considering the mounting demands for change within each institution, probably made them inevitable. These calls for change arise from a whole series of factors unrelated to grievance mechanisms, such as increased inmate militancy, which reflects the aroused political activism of minorities in general society; judicial intervention in the administration of correctional institutions and agencies, which has subjected to court review a broad range of official decisions formerly made in complete autonomy; and the development throughout the criminal justice system of alternatives to incarceration, which have altered the nature of the typical prison population.

Considering the volatile pressures for change currently percolating within the correctional system, it is remarkable that the cost of disturbances has been so low. Part of the reason may be due to the early effort of correctional administrators to create administrative mechanisms to handle the legitimate grievances of inmates in a non-violent way. A 1973 survey of over 200 adult correctional institutions indicated that a majority of the responding institutions already had installed some form of formal grievance mechanism.[2]

A willingness to respond, however, is not enough. Since research for this manual began in early 1974, two mechanisms sufficiently noteworthy for innovation and success to be included in this study have ceased to function. In January 1975 the Department of Rehabilitation and Correction in Ohio dropped its ombudsman program, and on April 1, 1975 the Resident Government Council at Walla Walla State Penitentiary in Washington was disbanded. In both instances, the mechanisms were inaugurated with high optimism and enthusiasm. Their failure reflects accurately the difficulty in fashioning effective, credible grievance mechanisms for prisoners.

The purpose of this volume is to help administrators who wish to implement new mechanisms or improve existing ones. What follows is a description of the most promising grievance mechanisms currently operating in the United States, as well as practical guidelines for the design, implementation and evaluation of new mechanisms. It is hoped that the end result of this Prescriptive Package will be the proliferation of administrative means for the effective provision of alternatives to violence and the realization of a greater measure of justice in correctional institutions.

The following materials represent the distillation of the experience and research of the Center for Correctional Justice over the past four years. A group of lawyers, correctional officials and ex-offenders founded the Center in 1971 to develop non-violent, administrative mechanisms for correctional institutions. The Center first designed and operated a pilot program for the delivery of legal services to prisoners and parolees in the District of Columbia. In the course of providing legal services to individuals, the Center also came to serve as

an *ad hoc* ombudsman, mediating disputes between inmates and correctional staff.

The Center's early experience led to the design of formal procedures for handling problems within correctional agencies. Variations of these procedures were implemented in the Massachusetts Department of Correction, and most recently, in the California Youth Authority. Because of its direct participation in the design and implementation of these procedures, the Center has become a source of technical assistance for other states, institutions, planning agencies and inmate groups interested in developing grievance mechanisms of their own. In late 1973, the Institute of Judicial Administration requested the Center to survey and prepare a report on innovative grievance mechanisms in juvenile institutions in order to provide data for the formulation of standards on juvenile justice by a joint IJA and American Bar Association commission. That report was completed in October, 1974. The Center, thus, brought to this study both operational and research experience in the problems of shaping effective grievance mechanisms for correctional institutions.

Notes for Chapter I

1. Attica: The Official Report of the New York State Special Commission on Attica, Chapter 2 (1972).
2. Virginia McArthur, "Inmate Grievance Mechanisms: A Survey of 209 American Prisons," *Federal Probation*, December, 1974, p. 41.

CHAPTER II. THE NEED FOR GRIEVANCE MECHANISMS

A 1952 riot in Southern Michigan Prison introduced a new way of dealing with major correctional disturbances that has become a modern precedent.[1] After five days, one death, 15 injuries and three million dollars worth of damage, the Governor of Michigan accepted an 11-point reform demand and promised no reprisals against prisoners by guards or other personnel. In 1957, the Governor of Utah promised impartial investigation of a 43-item grievance list submitted by inmates, thereby ending a 12-hour disturbance. A Tombs (Manhattan House of Detention for Men) riot in New York City in 1970 was ended only when inmates were allowed to present their grievances to the press and to the Mayor's office. In March, 1973, the Governor of West Virginia granted inmates 22 of their 24 demands in order to secure the release of five hostages.

The message such "capitulations" communicate to inmates is unmistakable. Rioting prisoners often lament that, under normal circumstances, no one will listen to their complaints or that, once heard, their grievances are ignored. Although recognizing that they themselves will be hurt the most by their violence, they refuse to eat or to work, burn their mattresses, break their television sets, and endanger lives with their protests. "It may seem stupid," explained one riot participant, "but this is the only time someone ever listened to us."

One indirect effect of successful resort to violence on the part of prisoners is the discouragement of inmate initiative in fashioning legitimate, non-violent means of expressing discontent and seeking reform:

> While displaying our displeasure in a manner we thought lawfully appropriate (exercising our right not to work was deemed lawful a long time ago), things have been taking place that make us wonder indeed if "orderly expression" is the answer, as opposed to disorderly destruction and violence, which never fail to draw quick attention and wide-spread news coverage.[2]

This rueful perception is not limited to cynical inmates. In its examination of the causes of riots in correctional institutions, the American Correctional Association endorsed the observation of *Christian Century* magazine:

> The riots result, we believe, not from bad prison conditions or practices but from the belief of prison inmates that the only way in which they can gain public interest in improving such conditions is by rioting. Non-violent protests or requests for remedial action, prisoners believe, never accomplish anything. Riots sometimes do.[3]

In her study of collective violence in prisons, Edith Flynn, Ph.D., Associate Director of the National Clearinghouse for Criminal Justice Planning and Architecture, writing for an LEAA-sponsored project on institutional violence in corrections, listed as one of the major contributing factors in the recent wave of correctional violence "absent or restricted communication patterns which seriously impair the airing of legitimate inmate grievances and the detection of impending unrest."[4]

The need for administrative responsiveness to inmates' grievances does not derive solely from the rising level of institutional violence. Beginning in the mid-1960s, the courts began to abandon their former "hands-off" attitude towards prisoners' claims with the result that inmates and reformers alike focused on judicial intervention as a primary vehicle for change in corrections. While there have been some dramatic legal victories that have transformed the law of prisoners' rights, the fruits of ten years of judicial intervention have been disappointing to inmates, judges, and correctional administrators.

Because of the length of time and the resources required to pursue a case through the courts, the continued reluctance of judges to deal with problems that do not rise to constitutional dimensions, and the difficulty of enforcing court orders in closed institutions, prisoners have become increasingly disillusioned with the judicial process as a means of dealing with prisoners' grievances. Litigation arising out of efforts to bring change to the Arkansas prison system illustrates some of the reasons for disillusionment. In a series of decrees in 1969 and 1970, a Federal district judge ordered the wholesale revamping of Arkansas corrections.[5] Yet, after five years of litigation, the United States Court of Appeals for the Eighth Circuit, in an opinion handed down in November 1974, confirmed the fact that conditions in Arkansas correctional institutions continued to be unconstitutional in many aspects and that Arkansas was in substantial non-compliance with the original judicial decrees.[6]

From the beginning of increased judicial activism, correctional administrators have suspected the appropriateness of court intervention as a means of achieving reform. The suspicion may arise, in part, because responding in court to prisoners' complaints is both time-consuming and expensive. Nonetheless, the conviction long has been prevalent among administrators that courts have no special expertise qualifying them to dictate change in corrections.

The courts themselves have not been indifferent to arguments that judicial intervention in the day-to-day operations of correctional institutions constitutes an overextension of the authority and capacity of the courts. Chief Justice Warren E. Burger relates with dismay the case of a prisoner who engaged the primary attention of "one district judge twice, three circuit judges on appeal, and six others in secondary sense—to say nothing of lawyers, court clerks, bailiffs, court reporters, and all the rest" in an attempt to recover seven packs of cigarettes allegedly taken improperly by a guard.[7]

Other judges have echoed the Chief Justice's concern over the appropriateness of the judicial process as a means of resolving the broad gamut of prisoners' complaints. In November 1974, the United States Court of Appeals for the First Circuit cited cases brought before Federal judges that were considered inappropriate for the exercise of judicial intervention. Examples included the claimed right to keep a pet in a correctional institution, the right of an inmate to receive personal clothing from the state, and the duty of the institution to repair broken toilets.[8]

While the subject matter of cases being referred by prisoners is a source of judicial vexation, it is the volume of petitions to the court that most disturbs court officials. The Administrative Office of the United States Courts reported recently that in fiscal year 1974, submission of petitions from state and Federal prisoners totalled over 18,000, representing almost 20 percent of all civil cases filed in Federal courts.[9]

As a recommended remedy, Chief Justice Burger, who has long been critical of the alarming rise in the number of prisoner petitions, has cited grievance procedures common in industrial plants and suggested that such procedures might be applicable to correctional institutions:

> This, in essence, is what every penal institution must have—the means of having complaints reach decision-making sources through established channels so that the valid grievances can be remedied and spurious grievances exposed.[10]

Judge Donald P. Lay, who is a member of the United States Court of Appeals for the Eighth Circuit, which has reviewed three of the major decisions[11] of the past five years dealing with correctional problems, similarly has identified the establishment of credible administrative mechanisms as one important means of reducing judicial intervention in corrections:

> The second and perhaps more immediate solution to many of our problems is to create within the prison system an administrative grievance adjustment policy which will be attractive to the prison population. As prisoners come to realize that their complaints will be processed on an administrative level in a fair, expeditious and impartial manner, and that relief will be afforded where justified, inmates will begin to elect their administrative remedy rather than the delayed process of the courts.[12]

In some jurisdictions where administrative grievance mechanisms have been introduced, courts have been quick to grant approval and encouragement. In a recent case denying Connecticut prisoners the right to form a union, a Federal district judge described the newly established ombudsman program as providing ample opportunity for the presentation of inmates' grievances for review by an objective, outside body.[13] In a little noted 1974 decision of the United States Court of Appeals for the Fifth Circuit, the court suggested strong approval for the requirement imposed by a subordinate Federal district court that Federal prisoners exhaust administrative channels for remedy of grievances offered by the newly implemented and then experimental Federal Bureau of Prisons grievance procedure before submitting their petitions to the lower court.[14] In a similar case, another Federal district judge ordered state prisoners in Maryland to exhaust the Inmate Grievance Commission established by statute in 1973 before bringing cases to the Federal courts.[15]

From the different points of view of the inmate, the administrator and the judge, all would seem to have much to gain from mechanisms that are faster, less costly and less painful than reform by judicial decree.

In addition to the need to respond to the threat of growing inmate violence and judicial intervention, there is another, more positive factor that recently has fostered the development of administrative grievance mechanisms in corrections. This positive impetus stems from an effort to identify and articulate a successor to the "rehabilitative model" of corrections that has dominated penology for most of this century and that increasingly is under attack. The heart of this new "model," as yet amorphous and barely in the process of formulation, is an emphasis of the importance of justice. For that reason, the approach is most often referred to as the "justice model."

The philosophical underpinning of the justice model has been expressed most forcefully by John Rawls, a contemporary English thinker:

> Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well arranged must be reformed or abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override.[16]

Since the justice model is only beginning to emerge as an articulated approach to corrections, there have been few conscious applications of the philosophy to date. Some of the reforms introduced in Minnesota corrections by successive Commissioners David Fogel and Kenneth Schoen in the early 1970's anticipated the approach; more direct applications of the model include the reform sentencing and correctional legislation introduced by Governor Dan Walker of Illinois in February 1975 and a grievance procedure involving independent arbitration introduced in 1973 in the California Youth Authority (CYA). In explaining his motivation for introducing the last-mentioned of these reforms, Allen F. Breed, Director of the CYA, recently cited the worth of the program as a means of promoting justice and demonstrating a democratic process within an authoritarian setting;

> 'Kids who turn delinquent have a very keen sense of fairness, maybe because they've learned to recognize the lack of justice in how they've been handled before they got to us.' Young offenders ask themselves, he said, 'why they should act in a law-abiding manner when they are constantly treated in a way that doesn't seem fair.'[17]

While the importance of justice in the correctional framework is receiving new emphasis, the need for fairness as a basic component of an effective grievance mechanism has long been evident. In 1967, the President's Crime Commission urged the establishment of procedures "both fair in fact and perceived to be fair by offenders" to provide a channel for the expression and equitable settlement of inmates' grievances.[18] This early recommendation has been repeated by virtually every recent major study group and commission on corrections. In January 1973, the National Advisory Commission on Criminal Justice Standards and Goals observed:

> A formal procedure to insure that offenders' grievances are fairly resolved should alleviate much of the existing tension within institutions . . . Peaceful avenues for redress of grievances are a prerequisite if violent means are to be avoided. Thus all correctional agencies have not only a responsibility but an institutional interest in maintaining procedures that are, and appear to offenders to be, designed to resolve their complaints fairly.[19]

Whether motivation for establishing them proceeds from a revulsion against violence, dissatisfaction with litigation, or the desire to promote justice, grievance mechanisms for inmates are now recognized by both professional and reform organizations as a fundamental requirement in correctional institutions. In its examination of the nature and causes of disturbances in correctional institutions, the American Correctional Association observed:

> Prompt and positive handling of inmates' complaints and grievances is essential in maintaining good morale. A firm 'no' answer can be as effective as granting his request in reducing an individual inmate's tensions, particularly if he feels his problem has been given genuine consideration by appropriate officials and if given a reason for the denial. Equivocation and vague answers create false hopes and thus increase the man's anger when nothing is done. A most dangerous situation arises, however, when inmates have grievances they feel can be corrected if only the proper officials are made aware of their problems. Inmates know that disturbances are certain to give their complaints wide publicity when less drastic measures fail.[20]

In a comprehensive statement of principles for correctional policy published in 1974, the Group for the Advancement of Corrections, a body composed primarily of present and former correctional administrators, included the declaration:

> Grievance procedures must be made available to all offenders. At a minimum, these procedures must provide for guaranteed responses to all grievances within specified time limits and review by some person or body outside the correctional agency and acceptable to both offenders and employees.[21]

The National Council on Crime and Delinquency, in its "Model Act for the Protection of the Rights of Prisoners," identified as fundamental the right of a prisoner to have access to a grievance procedure:

> The director of the State Department of Correction (or the equivalent official) shall establish a grievance procedure to which all prisoners confined within the system shall have access. Prisoners shall be entitled to report any grievance, whether or not it charges a violation of this Act, and to mail such communication to the head of the department. The grievance procedure established shall provide for an investigation (aside from any investigation made by the institution or department) of all alleged grievances by a person or agency outside of the department, and for a written report of findings to be submitted to the department and the prisoner.[22]

In late 1972, the American Assembly, a national non-partisan educational institution, brought together a group of representatives of government, medicine, communications, the legal profession, business, labor, education, the clergy, foundations and civic organizations for public discussion in depth of the American correctional system. In its report, the Assembly urged:

> There should be adequate grievance procedures to safeguard the rights of prisoners in confinement or

under supervision in the community. Governors and legislators should establish independent ombudsmen offices. Correctional systems should employ such devices as inmate councils or other forms of prisoner representation.[23]

These American professional and reform organizations echo principles included in the Standard Minimum Rules for the Treatment of Prisoners issued by the Fourth United Nations Congress on Prevention of Crime and Treatment of Offenders:

> Every prisoner shall be allowed to make a request or complaint . . . to the central prison administration, the judicial authority or other proper authorities through approved channels.... Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without delay.[24]

Finally, after a thoughtful evaluation of one specific disturbance, the seizure of Attica, the Correctional Association of New York, a statutorily established panel of independent overseers of the New York correctional system, concluded:

> It is now two calendar years since the awesome tragedy of Attica. Since that time in September 1971, there has grown almost universal agreement that essential to the prevention of another Attica is an effective system for hearing and dealing with the grievances of individuals in the State's correctional institutions.[25]

Indeed, agreement is virtually universal. Elementary psychology and fundamental justice both dictate that, wherever large numbers of human beings are confined involuntarily in close quarters, there must be effective, credible machinery to provide an outlet for their complaints and dissatisfaction.

Notes for Chapter II

1. More than 93 percent of all riots reported in the United States between 1900 and 1971 occurred after 1951. See South Carolina Department of Corrections, Collective Violence in Correctional Institutions: A Search for Causes 1973, Appendix B.

2. The Prison Strike: A Peaceful Alternative, printed in *Fortune News* (monthly newspaper of the Fortune Society, an organization of ex-convicts and other interested persons located in New York City) April 1973, p. 7.

3. *American Correctional Association, Riots and Disturbances in Correctional Institutions (1970)*, p. 66.

4. "Sources of Collective Violence in Correctional Institutions," National Institute of Law Enforcement and Criminal Justice, Criminal Justice Monograph: *Prevention of Violence in Correctional Institutions*, 1973, p. 28.

5. Holt v. Sarver, 309 F. Supp. 362 (E.D. Ark. 1970); Holt v. Sarver, 300 F. Supp. 825 (E.D. Ark. 1969).

6. Finney v. Arkansas Board of Corrections, 16 Crim. L. Rptr. 2120 (8th Cir., October 10, 1974).

7. Speech delivered to the American Bar Association, Washington, D.C., August 6, 1973. The case referred to by the Chief Justice is Russell v. Bodner, 478 F. 2d 1399 (3rd Cir. 1973).

8. Sparks v. Fuller, 16 Crim. L. Rptr. 2215 (1st Cir., November 21, 1974).

9. *American Bar Association Journal*, Volume 60, November, 1974, p. 1404.

10. Speech delivered to the National Conference of Christians and Jews, Philadelphia, Pennsylvania, November 16, 1972.

11. Wolff v. McDonnell, 418 U.S. 539 (1974); Morrissey v. Brewer, 408 U.S. 471 (1972); Holt v. Sarver, 442 F. 2d 304 (8th Cir. 1971).

12. "Corrections and the Courts," *Resolution of Correctional Problems and Issues* (published by the South Carolina Department of Corrections), Volume 1, No. 1, Fall, 1974, p. 10.

13. Paka v. Manson, 43 U.S.L. Week 2258 (D. Conn., November 22, 1974).

14. Ross v. Henderson, 3 Prison Law Rptr. 138 (5th Cir., March 15, 1974).

15. McCray v. Burrell, 367 F. Supp. 1191 (D. Md., 1973); this case is now on appeal to the United States Court of Appeals for the Fourth Circuit.

16. A Theory of Justice, 1971, p. 3.

17. Quoted in "Prison Grievance Procedures: A National Survey of Programs Underway," *Corrections Magazine*, January/February, 1975, p. 41.

18. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, 1967, p. 13.

19. National Advisory Commission on Criminal Justice Standards and Goals, Volume on Corrections, 1973, p. 57.

20. American Correctional Association, Riots and Disturbances in Correctional Institutions, 1970, p. 23.

21. The Academy for Contemporary Problems, The Group for the Advancement of Corrections, Toward a New Corrections Policy: Two Declarations of Principles, 1974, p. 10.

22. National Council on Crime and Delinquency, A Model Act for the Protection of Rights of Prisoners, 1972, p. 17.

23. Report of the 42nd American Assembly: Prisoners in America, 1972, p. 8.

24. Standard Minimum Rules for the Treatment of Prisoners, Rule 36, 1955, in American Bar Association and Council of State Governments, Compendium of Model Correctional Legislation and Standards, August, 1972, p. IV-11.

25. The Correctional Association of New York Newsletter, January-March, 1973, p. 2.

CHAPTER III. STUDY METHOD AND DATA ANALYSIS

In order to prepare a Prescriptive Package for administrators that would include descriptions of innovative grievance mechanisms currently operating in correctional institutions, as well as practical guidelines for design and implementation, the Center visited 17 correctional institutions with different types of mechanisms. "Mechanism" is used in a generic sense throughout this study and may be defined as any administrative process through which the complaints of inmates are expressed and resolved. Through its own earlier work in the design, implementation and evaluation of grievance mechanisms, the Center identified three basic types of mechanisms: ombudsmen, grievance procedures and inmate councils. All three types have been used widely in adult correctional systems. In a 1973 survey of more than 200 adult correctional institutions, 77 percent of the responding institutions reported having a "formal grievance procedure," 54 percent reported having an inmate council, and 31 percent reported having an ombudsman program.[1]

There are numerous variations within each basic type of mechanism. The Center attempted to include as many of these variations as possible in making its selection of places to visit for the study. The Center also attempted to select grievance mechanisms that reportedly had a high degree of success and were especially well known or used as models in other jurisdictions.

Selections were made on the basis of information obtained from the Center's 1973 survey, supplemented by reports of mechanisms in the press and professional publications, and by personal contacts with various agencies. In several instances the selected jurisdiction possessed more than one basic type of mechanism and, where this occurred, the Center looked at both mechanisms. Those programs selected for observations are described below.

Ombudsmen

- *The Connecticut Ombudsman Program:* The ombudsman is employed by the Hartford Institute of Social and Criminal Justice, which has a contract with the Connecticut Department of Corrections to operate the program. The Hartford Institute program is the only privately operated ombudsman program in the country.
- *The Iowa Citizens' Aide:* The Citizens' Aide office reports to the governor and legislature of Iowa and handles complaints by citizens about all parts of the state government. The Office of the Citizens' Aide has an assistant appointed specifically to deal with complaints about the corrections department.
- *The Minnesota Correctional Ombudsman:* The Minnesota ombudsman reports to the governor and handles complaints of both adult and juvenile inmates in the state correctional system.
- *The Oregon Penitentiary Ombudsman:* The Oregon Penitentiary Ombudsman reports to the superintendent of the institution.

Grievance Procedures

- *California Department of Corrections Procedure.*
- *Illinois Grievance Procedure*
- *Bureau of Prisons Administrative Remedy Procedure*
- *Wisconsin Inmate Complaint System*
- *Maryland Inmate Grievance Commission*
- *Ohio Grievance Procedure.* In addition to its procedure, Ohio had a departmental ombudsman.
- *Kansas Inmate Grievance Procedure.* Legislation in Kansas in mid-1974 created an ombudsman for corrections.

All of the selected grievance procedures require complaints and appeals to be in writing. All except the Maryland Inmate Grievance Commission and the Illinois Grievance Procedure, which were established by statute, were created administratively.

Inmate Councils

- *South Carolina Inmate Advisory Council at Central Correctional Institution.* The South Carolina Department of Corrections has a departmental ombudsman.
- *Washington State Resident Government Council*
- *Rhode Island National Prisoners' Reform Association.* The NPRA has both "inside" and "outside" components.

• *The New Jersey Office of Inmate Advocacy* investigates complaints and makes recommendations to the State Division of Corrections. In addition, as an official and independent state agency, it handles individual and class action suits directed against the correctional system and its components. As such, the New Jersey program defies easy classification. It was selected because it represented a new approach to the handling of inmates' grievances.

• *The California Youth Authority Ward Grievance Procedure.* Even though the CYA is, at least nominally, a juvenile or non-adult correctional system, its grievance procedure was included because it is one of the few mechanisms that has been evaluated in depth.[2] The evaluation of the procedure, which also features an excellent record-keeping system, was conducted by the CYA Research Division. The average age of inmates in CYA institutions is less of a distinguishing characteristic than it might appear, since CYA wards are comparable in age to inmates serving sentences under the federal Youth Corrections Act, in that the CYA accepts first admissions through age 20 and retains jurisdiction until age 25. In most CYA institutions (including the ones examined for this study), average ages of inmates are more nearly similar to those in adult than juvenile institutions. The average age at Karl Holton School is 19 and at the Youth Training School, 19.5 years.

Within each jurisdiction the choice of which institution to visit was left to the corrections department, except where the mechanism was present in only one institution (e.g., in Oregon) or where it was well known for its operation in a particular setting (e.g., the resident government in Walla Walla, Washington). In the California Youth Authority two institutions were visited and studied. (Brief descriptions of the mechanisms observed in each of the 16 jurisdictions is included in Appendix A.)

A team of two Center staff members visited each jurisdiction in which a mechanism was being studied for 3 to 5 days. Where appropriate, these visits included a stop at the central departmental office to interview key administrators responsible for introducing the mechanism. Another feature of each visit to a jurisdiction was an examination and evaluation of the records associated with the mechanism either at the departmental or institutional level, as appropriate. Wherever possible, the visiting Center team also observed proceedings of the grievance mechanism.

At each institution visited, the Center interviewed the warden, staff and inmates (if any) involved in the operation of the grievance mechanism, and several staff members and inmates not directly associated with the mechanism. Where possible, the Center also identified from records kept for the mechanism a few inmates who had used it, and interviewed them.

All of the interviews were semi-structured in order to obtain comparable data. The interviews were designed to ascertain the interviewees' knowledge of the procedure, assessment of its effectiveness, ideas for its improvement, analysis of its strengths and weaknesses, and guidance for its introduction elsewhere.

In addition to the foregoing, at each institution the Center administered a questionnaire to a 10 percent sample of the inmate population. The sample was selected by one of several randomization techniques: by taking every tenth name from an alphabetized list, by selecting every inmate whose identification number ended in a particular digit, or by choosing every tenth name from a list of inmates by location in the institution.

With the exception of Soledad Prison in California, at each institution the Center arranged to summon the selected inmates to a central location to complete the questionnaire. Center staff distributed questionnaires and explained the general purpose of the study to groups of 15 to 25 inmates. Explanation of the questionnaire emphasized that responses were to be given anonymously and that no one in the institution would be permitted to see individual questionnaires. In administering the questionnaire, Center staff read the questionnaire to a few illiterate inmates, and obtained assistance from bilingual inmates for Spanish-speaking participants.

The questionnaire included 15 questions designed to elicit comparable data from every institution. The first six questions dealt with characteristics of the respondent and the institution; the remaining questions sought to measure the respondent's knowledge of and willingness to use the grievance mechanism available in his institution. (A copy of the questionnaire is included in Appendix B.)

The remainder of this chapter is devoted to a discussion of the questionnaire results. Interviews and other observations are discussed in later chapters.

Responses to the questionnaire were coded and tabulated (see Appendix B), providing two major sets of data for analysis: responses to multiple choice questions and responses to questions requiring written answers. Among the multiple choice questions on the handling of grievances in each institution, the distribution of responses to some questions were particularly noteworthy. Of particular interest are: question 9, "Is there a particular person designated to handle inmates' complaints?" and question 14, "Have you ever been given a *written* explanation of how to make a formal complaint? Have you ever been given an *oral* explanation of how to make a formal complaint?"

In response to question 9 (whether a particular person is designated to handle inmates' complaints), 60 percent or more of the inmates in seven institutions responded affirmatively. However, when requested in the same question to write in the name of the person so designated, inmates either failed to name anyone or named someone not connected with the institution's grievance mechanism. For example, in Connecticut where 62.5 percent of the inmates acknowledged that a particular person handled the complaints of inmates, only four inmates, or 6.2 percent of all questionnaire respondents, identified the ombudsman as this person.

In only five institutions did more than a third of the responding inmates identify an individual actually associated with the mechanism being studied as the particular person designated to handle complaints. These individuals were the inmate council representative at Washington State Penitentiary (47.8%), the Resident Liaison Officer in Ohio (41.1%), the grievance clerk at Karl Holton School of the CYA (34.6%), the ombudsman in Oregon (34.4%), and the Institutional Complaint Investigator at Wisconsin State Prison (34.3%). At these institutions the mechanisms appear to be relatively well known, an obvious prerequisite to their being used.

Apropos of this point, responses to the two parts of question 14 (Have you ever been given a *written* explanation of how to make a formal complaint? Have you ever been given an *oral* explanation of how to make a formal complaint?) indicate how rapidly inmates can forget the receipt of information about a grievance mechanism. In certain institutions where there was strong evidence that inmates had received at least written explanations of the grievance mechanism, a majority of inmates denied ever having received it. In Connecticut, where a bilingual copy of the contract establishing the independent ombudsman is distributed routinely to incoming inmates, 60.9 percent of the inmates responded that they had never received a written explanation of how to make a formal complaint. These responses illustrate the necessity for thorough and repeated training if inmates are to be aware of how to exercise their rights under a grievance mechanism.

The questionnaire included two open-ended questions designed to assess the readiness of inmates to use the grievance mechanism in their institution if they had a complaint about an institutional policy (question 7) or if they were treated very unfairly by a staff member (question 8). Although broadly worded, the questions hypothesized situations that were expected to be viewed as serious, involving problems that inmates would want to resolve. Although some respondents failed to answer one or both of these two questions and others said their response would depend on the specific problem, the answers that were given show a remarkably diverse range in the readiness of inmates to use various mechanisms.

Table 1 shows the percentage of those inmates responding to the open-ended questions who indicated that they would take their problems to the grievance mechanism being studied. The table indicates that, judging by the readiness of questionnaire respondents to use the mechanism, the California Youth Authority Ward Grievance Procedure is clearly superior to all other mechanisms. The margin of superiority is so substantial it demands an explanation.

TABLE 1. Percentages of Respondents* Who Would Use Mechanism Being Studied If

	They had a serious complaint about an institutional policy	*They were treated very unfairly by a staff member*
OMBUDSMEN		
1. Minnesota	19.4	10.3
2. Connecticut	13.8	14.2
3. Oregon	10.3	6.3
4. Iowa	0.0	0.0
5. South Carolina	0.0	0.0
PROCEDURES		
1. California Youth Authority		
a. Youth Training School	68.8	60.9
b. Karl Holton School	67.4	66.7
2. Wisconsin	35.0	22.5
3. Ohio	31.4	31.9
4. Illinois	22.2	25.0
5. Maryland	21.3	22.9
6. California Department of Corrections	13.5	7.7
7. Bureau of Prisons	4.8	0.0
8. Kansas	0.0	0.0
COUNCILS		
1. Rhode Island	63.2	33.3
2. Washington	45.0	55.0
3. South Carolina	25.7	4.2

* Omitting respondents who did not answer question. Inclusion of these subjects reduces the percentage figures but leaves the comparative rankings intact.

One possible explanation may be found elsewhere in the same table, which indicates that the five mechanisms most frequently identified as those to which inmates

would bring complaints about institutional policy (Youth Training School and Karl Holton School of the CYA, Rhode Island, Washington, and Wisconsin) and the four mechanisms most frequently identified as those inmates would use when treated unfairly by a staff member (Karl Holton School and Youth Training School of the CYA, Washington and Rhode Island) all share a common characteristic, that is, active participation of inmates in the operation of the mechanism.

In addition, in all but one (Wisconsin) of these highly ranked mechanisms, the intake point for grievances is an inmate and consideration of complaints first occurs among inmate peers. This is clearly the case in Rhode Island and Washington where the form of the mechanism is an inmate council; in the CYA, where grievances are filed with an inmate clerk, the first level of review takes place before a committee including elected inmates in its membership. In Wisconsin, even though complaints are submitted to a staff member, those dealing with institutional policy (as distinguished from those involving individual problems) may be referred to a committee with inmate membership.

This analysis would seem to indicate that inmate participation, either as a contact point for the mechanism or as an early level of review, is crucial in determining the readiness of inmates to use a grievance mechanism.

In an effort to pinpoint reasons for the wide diversity in the readiness of inmates to use available mechanisms as revealed by analysis of the questionnaire, Center personnel, who had conducted interviews, examined records and observed proceedings at each institution, attempted to identify the characteristics that seemed important in the establishment of an effective mechanism. Fifteen characteristics were isolated and identified. Center staff members rated each mechanism observed on the 15 characteristics. The ratings considered the following characteristics:

1. Whether the mechanism has few steps,
2. Is easily understood,
3. Whether written responses are given,
4. Whether reasons are given,
5. Whether all complaints are answered,
6. How fast the answers are returned,
7. Existence of time limits,
8. Whether inmate representatives were involved in designing the mechanism,
9. Whether representatives of the line staff (as opposed to administrative staff) were involved in designing the mechanism,
10. Whether outside review is included in the mechanism,
11. The degree of commitment on the part of the central administration to the program,
12. The degree of commitment on the part of the superintendent to the program,
13. Whether inmates are involved in the mechanism's operation,
14. Whether staff members are involved in the mechanism's operation,
15. Whether there was thorough training in conflict resolution skills of the key personnel involved in the mechanism.

Since analysis of the questionnaire had indicated that the range of diversity in the readiness of inmates to use mechanisms varied most widely among procedures, as opposed to ombudsmen or inmate councils, (from zero percent in Kansas to 66.7% in Karl Holton in the case of complaints arising from very unfair treatment by staff) and since more complete data were available on more procedures (nine) than on any other type of mechanism, further analysis focused on grievance procedures.

Table 2 lists the nine institutions with procedures and gives ratings for each on the 15 characteristics. A rating of one is poor, five is excellent. At the bottom of Table 2, for convenience, the institutions are ranked according to percentages of inmates who expressed readiness to use the procedure for each kind of complaint. As can be seen from the table, none of the procedures was rated highly for simplicity, as indicated by the first two characteristics. Compared with ombudsman programs, which generally have no more than one easily understood step, procedures are complex.

Some of the 15 characteristics turned out to be useless for distinguishing between procedures inmates are willing to use and those they are unwilling to use, either because only one highly rated procedure possessed them or because both highly and poorly rated procedures possessed them.

Analysis of the remaining characteristics isolated two important factors, one of which, outside review, appears to be critical. Of the six procedures identified most often by inmates as ones they would be willing to use, five (Karl Holton School and Youth Training School of CYA, Wisconsin, Illinois and Maryland) feature some form of outside review. In the three procedures (California Department of Corrections, Bureau of Prisons, and Kansas) least likely to be used, none has any form of outside review. Thus, the involvement of outsiders seems to have a direct effect on the level of use a procedure will enjoy.

The other important characteristic is fast answers. For complainants who appear to have nothing in more abundance than time, the importance of fast answers

TABLE 2. Ratings of Grievance Procedures on 15 Characteristics

Ratings of Nine Grievance Procedures by Characteristics

Characteristics	*Calif. Youth* *YTS*	*KH*	*Wisc.*	*Ohio*	*Ill.*	*Md.*	*Calif. (Adult)*	*Bur. of Prisons*	*Kansas*	*Ratings*
1. Few steps	3	3	2.5	3.5	3	5	3	4	4	5-Excellent
2. Easily understood	3	3	4	2.5	3	5	3	3	3.5	4-Very Good
3. Written responses	5	5	5	2.5	2.5	3	3.5	5	1.5	3-Good
4. Reasons given	5	5	5	3	2.5	3	2.5	4	1.5	2-Fair
5. All complaints answered	5	5	5	3	2	3	2	5	1	1-Poor
6. Fast answers	5	5	4.5	3	2	2.5	1	2	1	
7. Time limits	5	5	4	2	1	2	3	5	1	
8. Inmates involved in design	5	5	1	1	1	1	1	1	1	
9. Line staff involved in design	5	5	1	1	1	1	1	1	1	
10. Outside review	5	5	4	1	3	5	1	1	1	
11. Central office commitment	5	5	3.5	3	3	2	3.5	4	1.5	
12. Superintendent office commitment	4	5	4	4	2.5	1	2.5	4	1.5	
13. Inmates involved in operations	5	5	1	1	1	1	1.5	1	1	
14. Staff involved in operations	5	5	3	2	2.5	1	2	2	1	
15. Thorough training	5	5	1	1.5	1	1	1.5	1	1	

Rankings of Nine Grievance Procedures by Percentages of Respondents Who Would Use Mechanism Being Studied If

	They had a serious complaint about an institutional policy	*They were treated very unfairly by a staff member*
1. California Youth Authority		
a. Youth Training School	68.8	60.9
b. Karl Holton School	67.4	66.7
2. Wisconsin	35.0	22.5
3. Ohio	31.4	31.9
4. Illinois	22.2	25.0
5. Maryland	21.3	22.9
6. California Department of Corrections	13.5	7.7
7. Bureau of Prisons	4.8	0.0
8. Kansas	0.0	0.0

seems paradoxical. Perhaps, when viewed as an indication of the priority given the complaints and problems of inmates within the correctional system, the element of time becomes important symbolically. Those whose complaints are consistently assigned a low priority while other matters are taken care of more rapidly may soon come to believe that their problems are not viewed with much concern.

Analysis of responses to the questionnaire, supplemented by a study of the characteristic ratings, indicates the special importance of the three elements of participation on the part of inmates, outside review, and timeliness in creating effective grievance mechanisms in correctional institutions. The relationship of these factors to the design of a mechanism and the way in which a mechanism is implemented will be traced throughout the discussion of currently operating mechanisms in the following chapters.

Notes for Chapter III

1. Virginia McArthur, "Inmate Grievance Mechanisms: A Survey of 209 American Prisons," *Federal Probation*, December, 1974, p. 41. Ms. McArthur is Research Director of the Center for Correctional Justice, which conducted the survey.
2. See, e.g., California Youth Authority, *Final Evaluation of Ward Grievance Procedure at Karl Holton School*, November, 1975, a 160-page monograph analyzing the first year of operation of the procedure in one institution.

CHAPTER IV. DESIGNING AN EFFECTIVE GRIEVANCE MECHANISM

One of the most difficult problems associated with the creation of an effective design for any grievance mechanism is the establishment of credibility. The problem is especially complex in the correctional environment because it is multi-dimensional; every correctional grievance mechanism requires the trust of three distinct constituencies–administration, line staff and inmates–each of which has a differing perspective and interests.

One fairly obvious way to establish the credibility of correctional grievance mechanisms has been generally overlooked to date. Institutional line staff and inmates have been involved only rarely in the operations of mechanisms except as grievants or as targets of complaints. When mechanisms which exclude their participation by design are imposed on line staff and inmates from above they are met characteristically with hostility and suspicion. The result is that line staff and inmates regularly view grievance mechanisms as another example of that sterile, impersonal administrative process that incorporates the inefficiencies of the adversarial system and little of its objectivity.

Some suspicion and skepticism can be overcome by careful implementation (some guidelines for which are discussed in Chapter 5), but far more effective in promoting credibility is the assignment to staff and inmates of central roles in making the mechanism work. Such roles could involve staff and inmates in the mechanism as investigators, hearing examiners, hearing committee members, mediators, representatives, clerical assistants, grievance recipients, or advisers. Not only do such roles give participants a vested interest in the success of a mechanism, they also promote an important administrative advantage by creating opportunity for the settlement of grievances at the lowest possible organizational level.

Some types of grievance mechanisms lend themselves more readily to participation than others. It is obviously easier to give staff and inmates meaningful roles in a grievance procedure or inmate council than in an ombudsman program. No type of mechanism, however, necessarily excludes the active participation of line staff and inmates and even an ombudsman, if he is imaginative, can find ways to include in his program staff and inmate investigators, clerks, representatives and recipients of grievances.

It is important to realize that the participation does not mean the assignment of empty titles and meaningless tasks to line staff and inmates. To be at all effective, participation must grant line staff and inmates the capacity to work together at the living unit level to make real *decisions* on matters within their jurisdiction, as well as to offer recommendations that are persuasive to administrators on matters outside the jurisdiction of the living unit, such as institutional and departmental policies. This kind of participation requires an increased willingness on the part of departmental and institutional administrators to share real power with line staff; and it requires, in turn, a willingness on the part of staff to share power with inmates. While the participatory approach is not a new idea, its application to corrections so far has been largely unrealized. It is a key to greater credibility because it seeks to leave the solution of problems to the very people who must live with them.

Including the element of participation in the design of a mechanism is helpful in reducing the skepticism of both staff and inmates in regard to grievance mechanisms, but much more in the way of design is required to eliminate the far deeper suspicions of inmates about the sincerity of the correctional system's desire to resolve their complaints. Repeatedly inmates in institutions across the country expressed to Center interviewers a basic distrust of any mechanism completely under the control of the department of corrections; only slightly less often they confessed to reservations about systems that permit appeal to other executive agencies of government. Even in regard to mechanisms that include a level of review that is independent of both corrections and government, inmates hesitate to accept as real the disinterestedness of outside reviewers. Considering the breakdown of confidence in institutions of government prevalent in society as a whole, the distrust of prisoners in grievance mechanisms that are completely under the control of the correctional system is not surprising.

The need for independence in a correctional grievance mechanism has been stressed by a wide variety of observers. In its compilation of *Model Rules and Regulations on Prisoner Rights and Responsibilities,*

Boston University's Center for Criminal Justice commented:

> Moreover, the uniqueness of the correctional system would seem to require the availability of external mechanisms to review complaints. It is believed that internal grievance procedures 'are part of the system,' and that where 'recommended action' comes from prison officials, directly or indirectly connected with reviewing a complaint, peer group pressure or command influence may adversely affect a fair decision.[1]

Elsewhere, in describing the need for establishing a correctional ombudsman independent of the administrative structure of the corrections system, one legal commentator spelled out the logical grounds underlying the need for independence:

> As important as the prison internal grievance machinery is, it has its limits. It is part of the prison system. Those who are called upon to respond to the inmates' complaints work for the prison and for higher prison officials. Their first duty is to their superiors.... Even if a complaint is fully investigated and an honest answer given to the inmate, the answer is suspect. Suspect because the answer is given by the people who are charged with running the institution—the people whose omissions or commissions are the subject of the complaint.... A grievance mechanism responsible to the chief executive will always have these limitations and a lack of inmate confidence.[2]

The Correctional Association of New York bluntly summarized the argument in the form of a rhetorical question:

> What inmate or correction officer—or member of the general public—is going to believe in the impartial integrity of an ombudsman commission whose chairman is the Commissioner of Correctional Services or who reports to and is controlled by the Chief Executive?[3]

Articulation of the fundamental importance of independence in a grievance mechanism for corrections has been as diverse in source as it has been widespread.[4] Each call for objective, outside review in correctional grievance mechanisms has stressed the importance of a design that will be credible to inmates and reflects the concern most observers feel about overcoming initial inmate hostility towards departmentally or institutionally controlled grievance resolution systems.

Since the purpose of a grievance mechanism is to provide a formal means for obtaining resolution of complaints, the mechanism necessarily must be capable of reviewing the policies and actions of the correctional establishment, i.e., administration and line staff. Coming after a history of autonomy, such review naturally creates apprehensions, but if the design of a mechanism is too sympathetic to these apprehensions, the capacity of the mechanism to investigate and respond effectively to grievances may be restricted or eliminated.

There is a temptation for reluctant administrators, who are unwilling to accept a design embracing independence, to insist that such a mechanism will undermine security and control of the institution. The success to date of a number of grievance mechanisms that involve outside review offers ample empirical evidence that an effective mechanism destroys neither security nor control. In its interviews with administrators, the Center found no disposition to connect security problems with grievance mechanisms. In most institutions, the assessment of administrators was that a mechanism had either a positive effect or no effect at all on the reduction of tensions; none reported an increase in tension as a result of the mechanism. After interviews with staff members exposed to operations of a grievance procedure for 90 days, the CYA Research Division reported that over 85 percent of those interviewed saw either no change or a positive change in staff-inmate interactions as a result of the procedure.[5]

In addition to participation and outside review, another critical design factor in establishing the credibility of a grievance mechanism is length of time required to pursue a complaint to a conclusion through all the levels of review. There is probably no institution in society in which time is so central a consideration as it is in a prison. Perhaps it is the heaviness with which time hangs for so many prisoners; perhaps it is the fact that time is the one insuperable barrier to release. Whatever the psychological explanation, prison inmates interviewed by the Center in institutions all across the country universally condemned the slowness with which grievance mechanisms dealt with their problems.

In analyzing reasons for the unhappiness of inmates with the lack of timeliness of their grievance mechanisms, two factors emerge. The first is primarily symbolic and represents the resentment inmates feel at the apparently low priority placed on their problems. Events in institutions involving security or control, they assert, receive immediate attention; the correctional bureaucracy can move with unbelievable swiftness in responding to the slightest rumor of escape, contraband, or unauthorized organized inmate activity. When the bureaucracy turns to the grievances of prisoners, however, it seems to inmates to react more slowly, indicating thereby indifference towards their grievances.

The second factor involves the nature of most inmate grievances. Prisoners' complaints regularly concern issues of fundamental daily life such as food, clothing, and living quarters, all of which are subject to a degree of intense regimentation and regulation totally foreign to the daily lives of those in outside society. Considered individually, the complaints may seem inconsequential; within the context of the unnatural social climate of a

prison, they assume great importance. Many of these grievances are ephemeral and, if they are to be resolved at all, must be responded to quickly..Thus, procedures that take three or six months to respond to such problems are useless.

Time limits, therefore, are important in designing a grievance mechanism that inmates will trust and use. There are other design provisions that must be avoided if inmates are to be encouraged to make use of a mechanism. In the original administrative regulation establishing its inmate grievance procedure, one department warned potential users of the system: "Disciplinary action may be taken against any inmate as a result of his using the procedures established herein for the purposes of harassment or malicious abuse."[6] There is no definition of "harassment" or "malicious abuse" given in the regulation and there are no guidelines as to who might bring such a disciplinary charge against the offending inmate. For the inmate who is debating whether to use the new procedure, the provision's impact must be negative. Not only may his grievance be rejected, but he also runs the risk of subjecting himself to discipline for submitting his complaint, especially if it concerns the action of a specific administrator or staff member.

Equally inhibiting is a provision requiring that a copy of the grievance be placed in the complaining inmate's central file.[7] The form of reprisal most feared by inmates is unfavorable intervention in the decision to grant parole. The knowledge that his complaint about policy, programs or personnel will appear in a file considered by the paroling authority will almost always drive away an inmate hesitant to use the mechanism.

Another early problem of design, indirectly related to the question of credibility, involves the definition of a grievance. To date most mechanisms have defined grievances broadly, thereby including within the jurisdiction of the mechanism the whole gamut of inmates' problems. A few correctional agencies deliberately have excluded from the procedure complaints dealing with disciplinary dispositions. It is sometimes claimed that an elaborate disciplinary appeal process (usually just introduced at great cost) provides a better and more appropriate review of disciplinary dispositions, in that the disciplinary appeal process is designed with the judicial requirements for due process in mind. The argument also is made that the purpose of a grievance mechanism is to solve problems, not adjudicate facts; the requirements of due process, necessary for the handling of disciplinary appeals, inhibit rather than further the problem-solving aspects of a grievance mechanism.

The response of some to these arguments is the accurate observation that one of the most important problems in the life of any prisoner is his relationship to the disciplinary process. A grievance mechanism for prisoners that excludes one of the central aspects of prison life may have a difficult time establishing credibility among the inmate population.

At this point, there is insufficient empirical evidence to indicate which of these differing approaches is correct. Experience, however, does indicate that a corollary must be appended to the design decision to separate disciplinary matters from grievances. The settling of jurisdictional disputes, i.e., the determination of what is "disciplinary" and what is a "grievance," cannot be left to the unreviewable discretion of administrators if the validity of the distinction is going to be accepted by inmates. Any design that restricts the definition of a grievance also must include a provision subjecting decisions on the definition in a specific instance to review by means of the grievance mechanism.

Finally, there are some self-evident elements that are essential to the design of any type of grievance mechanism. Among these is the need for guaranteed responses and the opportunity for a complainant to express and explain his grievance. An open-ended mechanism, with no requirement to respond to complaining inmates, is not likely to be resorted to frequently by inmates, while a process that never gives an inmate the chance to describe formally his problem prompts complainants to believe their cause has not been considered seriously. In evaluating the California Youth Authority's grievance procedure, the CYA Research Division found that there seemed to be a direct relationship between the satisfaction of a user with the procedure and his appearance before a committee on his living unit to express his grievance. Among those inmates whose problems were resolved favorably but informally (without such a hearing), there was considerably more dissatisfaction with the fairness of the procedure than among those whose problems were resolved unfavorably but formally (with a hearing).[8] This seems to indicate that the way in which a grievance is processed is more important to inmates than the substance of the response.

Once an administrator has come to grips with the fundamental problem of credibility, he will want to know more about each of the available basic types of grievance mechanisms, including the ombudsman, the multi-level grievance procedure, the inmate council and the labor model. The following is an analysis of the strengths and weaknesses of each model as exemplified in operating programs across the country.

Section 1. Ombudsman Programs

Although the Swedish Constitution Act of 1809 first created the position of ombudsman, the word ombuds-

man has its origin in the primitive legal order of Germanic tribes. The tribes devised two punishments that could be inflicted on lawbreakers. The first was "outlawry," which brought about the banishment of an outlaw and left him free mark for slaying. The other punishment, an alternative to outlawry, was the imposition of a fine payable to the family of the aggrieved party by the family of the culprit. Fearing violence in a face-to-face meeting for payment, an impartial person was appointed to collect the fine ["om" (about) "buds" (messenger collecting "fine")].[9]

The Basic Law of Sweden in 1809 provided for an ombudsman as "Parliament's agent of justice." Each of the Scandinavian countries followed Sweden's lead in creating governmental ombudsman offices and all have some characteristics in common. The Scandinavian ombudsmen are appointed by the legislature; all are entirely independent of the executive; all can make information public at any time; and all must report annually to the legislature. Each Scandinavian ombudsman is among the highest paid public officials in the country, and each has had wide governmental experience.[10]

The ombudsmen are charged with receiving, investigating and reporting on citizens' complaints of bureaucratic abuse. Basic "powers" of the ombudsmen include accessibility to files, documents and records for investigatory purposes; the publication of recommendations for action; and, in two of the Scandinavian models (Sweden and Finland), the option of prosecuting public officials for illegal actions.

Scholars agree that the essential elements in the Scandinavian model are independence and impartiality of the ombudsman.[11] In addition, the stature of the ombudsman, while not crucial, is quite important. Since, for the most part, the ombudsman has power only to recommend, not to enforce the findings of his investigation, personal stature and respectability of the individual ombudsman often determine the effect of his reports to the legislature and the public.

In America in recent years, the ombudsman concept has become increasingly popular as a complaint-handling mechanism used by states, governmental agencies, businesses, universities and prisons. In the past seven years at least eight states have adopted some variant of an ombudsman authorized to accept citizens' complaints, including those of prisoners.[12] Some jurisdictions, such as Hawaii, have ombudsmen appointed by legislatures to handle complaints against state agencies and officials, including the corrections department; other states, beginning with Oregon in 1971, have created correctional ombudsmen specifically to handle prisoners' complaints.

In February 1974, the Ombudsman Committee of the American Bar Association's Section of Administrative Law wrote and published a model statute for state governments interested in creating an ombudsman. The model bill reflects closely the essential features of the Scandinavian model and includes the following provisions:

1. Appointment: The ombudsman is to be elected by a two-thirds vote of the members of both houses of the legislature or, alternatively, appointed by the governor, subject to confirmation by a two-thirds vote of both legislative chambers.

2. Qualifications: The ombudsman is to be an individual of "recognized judgment, objectivity and integrity...well equipped to analyze problems of law, administration, and public policy."[13] Compensation for the ombudsman is set deliberately high (the same salary and benefits as the chief judge of the highest state court) to attract highly qualified people.

3. Removal: The ombudsman can be removed only by a two-thirds vote of both houses of the legislature and only for mental or physical incapacity or other grounds sufficient for removal of a state court judge.

4. Powers: Included in the ombudsman's powers is authority to use the courts to enforce compliance with his investigations.

5. Reports: The ombudsman may publish through the media his recommendations in separate special reports or in general periodic reports of his activities, provided only that he also publishes brief replies from any agencies he criticizes.

Among the correctional ombudsman programs observed for this project, the Center encountered a wide variety of design and operation. In some instances there was an attempt to preserve the essential elements of the Scandinavian and ABA models, while in others the label of ombudsman was attached to a program with few of the characteristics of its Scandinavian forbears.

Three of the states, Minnesota, Iowa and Connecticut, have made serious attempts to preserve independence and impartiality, the two essential qualities of the Scandinavian model.

The "Iowa Ombudsman Act" creates an ombudsman to "examine administrative action to safeguard against possible administrative excesses and to protect the individual rights of citizens."[14] A multi-discipline commission was established to select a slate of ombudsman candidates, and the final choice was given to a joint legislative committee. The Iowa ombudsman must be confirmed for his four-year term by a majority vote of both houses of the legislature and can be removed from office only by a two-thirds vote of both legislative houses.

Although the initial legislation did not include a correctional investigator, the bill was amended in

1973[15] to include a deputy ombudsman responsible for correctional facilities. The jurisdiction of the correctional investigator in Iowa includes three adult facilities, two juvenile facilities and 88 county jails.

Minnesota's correctional ombudsman program was initiated in 1972 by Executive Order[16] of the governor. In July 1973, the legislature passed a comprehensive ombudsman bill.[17] The Minnesota ombudsman serves at the pleasure of the governor, and there are no clear guidelines on causes for his removal, which does not require a vote of the legislature. Although the office of the Minnesota ombudsman by design is independent of the agency it monitors, it is not independent of the executive of the state. It is interesting to note that in his first two and a half years of operation, the Minnesota ombudsman has never taken any of his recommendations to the governor over the head of the commissioner of corrections, as he is entitled to do under the statute. The ombudsman explains that he has never had to, since the commissioner either accepts his recommendations or shows good cause for rejecting them.

The ombudsmen in both Minnesota and Iowa have access to files and records of the corrections department and other agencies pertinent to their investigations. Both also are given statutory authority to determine their own procedures for processing complaints, as well as the scope and length of investigations. Each can order sworn testimony and must inform the complainant of the final disposition of his complaint. Provisions in both statutes prohibit tampering with sealed mail to the ombudsman's office from institutions.

The Connecticut ombudsman program, while quite different from the Scandinavian and ABA models, incorporates the elements of independence, impartiality and expertise into its design. This unique program was developed at the suggestion of the corrections commissioner who wanted an ombudsman program independent of the department and the executive branch of government. The commissioner negotiated a contract[18] with the Hartford Institute of Criminal and Social Justice, a private organization, in 1973 and established an ombudsman program completely under the control of the Institute.

The Connecticut ombudsman was hired by the Institute and has been given access to institutions and to departmental files and records. In the agreement creating the Connecticut program there is specific detail on such items as the establishment of a special period of initiation for the ombudsman in each institution in which he works, methods of receiving complaints, and directions for the submission of findings. The agreement also discusses confidentiality and outlines requirements to be met before a complainant's name can be revealed.

In defining the functions of the ombudsman, the negotiated contract provides for regular meetings between the ombudsman, institutional administrators and the commissioner; and prescribes time limits for notification by the ombudsman that a complaint has been received, as well as for responses to the ombudsman's recommendations by the appropriate administrators.

One of the most obvious drawbacks of the Connecticut plan is that it relies on the continued acceptance of the corrections agency for existence. Since the program has not been legislatively enacted, changes in personnel, shifts in funding priorities or other imponderables could lead to termination of the program.

The contract limits the ombudsman's responsibilities to the receipt of complaints from inmates in Connecticut correctional institutions and specifically excludes employees' grievances. Presently the ombudsman visits and receives complaints from two facilities, the state's maximum security institution (Somers) and the Hartford detention center (Hartford Community Correctional Center).

In 1972 both Ohio and South Carolina developed ombudsman programs that bear little resemblance to the Scandinavian model. Ohio Department of Corrections Administrative Regulation No. 847 established an ombudsman, appointed by the director of the department, to receive and investigate complaints from correctional institutions. In South Carolina, the director initiated an ombudsman program to respond to complaints from inmates, staff, persons in the community and lawyers.

In both states the ombudsmen are departmental employees, hired by and responsible to the directors of the agency they are supposed to monitor. The ombudsmen, in effect, are institutional inspectors working for the department; they are subject to no external control (although the Ohio ombudsman submits an annual report to the Governor).

The Oregon ombudsman program bears even less resemblance to the concept of "Parliament's agent of justice." In 1971 the superintendent of the Oregon State Penitentiary appointed an institutional employee to the position of ombudsman with responsibility for receiving and answering inmates' complaints.

The Kansas legislature outlined vague plans for an "ombudsman of correctional institutions" in Senate Bill No. 72,[19] passed in 1974. The legislation calls for the appointment of persons to serve on a Citizens' Advisory Board, who will be given responsibility for hiring an ombudsman and monitoring the operations of the program. While the Kansas legislation offers the possibility of an independent ombudsman by directing that the appointed members of the Citizens' Advisory Board,

rather than the director, choose and monitor the ombudsman, the status and jurisdiction of the position are so amorphous that it is impossible at this point to judge its potential. An amendment defining further the role and powers of the ombudsman is being drafted at the present time.

In each of these four states, South Carolina, Ohio, Oregon and Kansas, the central Scandinavian concept of creating an independent, impartial office with legislative mandate to guard against governmental inequities is missing. To varying degrees each of the ombudsmen has been stripped of qualities essential to uphold the fragile authority of his position, namely, the ability to recommend solutions and negotiate those recommendations with the power structure. As departmental employees, they may be knowledgeable about correctional problems, but because they are employees, they encounter extreme difficulty in establishing their objectivity and impartiality with the inmate population.

The internal investigators established in Oregon, South Carolina and Ohio have similar powers, except that the Oregon ombudsman operates in only one facility. The "ombudsmen" have access to files and records, and are required to investigate each complaint and present recommended solutions to their superiors. Written answers are not required; time limits are not imposed to ensure speedy responses; and there are no specific guidelines for the qualifications or operations of the ombudsmen. In effect, what each administrator has done is to create a staff position and direct that its occupant handle the complaints of inmates. This approach may represent substantial improvement over preceding arrangements in that it permits the consideration of grievances at a higher level of administration and it may suffice to handle adequately many of the complaints of inmates. It surely is not an ombudsman.

To date, none of the correctional ombudsman programs has followed the lead of the Scandinavian model in hiring as ombudsman a prominent citizen with a distinguished career in public service. In Iowa, the state ombudsman (Citizens' Aide) fits the classic Scandinavian qualifications, while his "Corrections Investigator" is an ex-offender. In most correctional systems, the salaries available for potential ombudsmen are limited and it is difficult to locate and attract individuals prominent in corrections or the broader area of criminal justice who are not viewed with suspicion by one of the three correctional constituencies.

This does not mean that there has been little concern about the selection criteria for ombudsmen. An enormous amount of energy and argument has gone into establishing the qualifications for the individual who will serve as ombudsman. Administrators who have designed the various extant ombudsman programs in corrections frequently assert that it is absolutely essential for an effective ombudsman to have whatever background their own possesses. The ABA model ombudsman legislation is far more flexible, suggesting that, while experience points to the desirability of a legal background, there is no reason for limiting the qualifications to any one profession.[20] Experience vindicates this approach. Many different kinds of people are working effectively as correctional ombudsmen, including a former social worker, a businessman, a correctional officer, legal aid attorneys, an ex-offender, blacks, whites, introverts and extroverts. Thus, it may be preferable not to spell out the qualifications for an ombudsman in great detail initially. Moreover, determining the qualifications for an ombudsman in a specific jurisdiction through the solicitation of input from administrators, line staff and inmates can be a valuable part of the successful implementation of an ombudsman program.

There is another critical characteristic of the Scandinavian model of the ombudsman that generally has been overlooked in the United States. The ombudsman never was intended to supplant the internal administrative systems of the executive agencies it was established to monitor:

> The institution of an Ombudsman will never be a substitute for such elementary safeguards as judicial control, internal control, and an administrative appellate system. It will always be a factor of additional guarantee. If the ordinary remedies do not function satisfactorily, the Ombudsman will be paralyzed by an overwhelming workload.[21]

The workload problem in corrections can be seen clearly by an extrapolation of statistics for one of the effective, extant internal administrative grievance procedures. In the first 16 months of operation of the CYA grievance procedure, a daily average population of approximately 500 inmates submitted over 700 complaints. When the entire institutionalized population of the CYA (approximately 4,000 inmates) has access to the grievance procedure in mid-1975, it is estimated that about 2,000 to 2,500 complaints a year will be processed. The Minnesota Ombudsman for Corrections (with eight full-time and three part-time staff members) handles approximately 1,000 complaints a year (927 in 1972-73 and 1,070 in 1973-74). Faced with a volume comparable to that expected in the CYA, the Minnesota ombudsman would either be overwhelmed or forced to limit his attention to more "critical" cases. Either result would impair rapidly the program's credibility.

The problem of volume explains the reason for the requirement in most ombudsman programs (e.g., Finland, Denmark, Norway and New Zealand) for the exhaustion of administrative remedies before the om-

budsman can be resorted to with a complaint.[22] The problem of volume also explains why an ombudsman program is, most often, an inadequate substitute for an administrative grievance procedure.

In another critical area, the inadequacy of the ombudsman structure as an internal administrative grievance is equally apparent. The establishment of time limits is incompatible with the nature and functions of the ombudsman, who must be given ample time to investigate problems thoroughly and make thoughtful recommendations, as well as negotiate their acceptance by the institution or department. Yet the absence of time limits means that in all probability the ombudsman type of grievance mechanism will never be accepted by the courts as a "prompt" administrative remedy, which must be "exhausted" before prisoner petitioners apply for judicial relief. In addition, as has been seen already, the provision of fast answers is an essential component of a credible mechanism. In fact, the lack of timeliness characteristic of ombudsman programs may explain more readily than any other factor the unwillingness of inmates to resort to ombudsmen with their problems reflected in the questionnaire discussed in Chapter 3.

A positive aspect of the ombudsman concept that is frequently overlooked is the authority of the ombudsman to initiate investigations. This authority has been largely unused in correctional versions of the ombudsman because the officeholder typically has been overwhelmed by inmate-initiated grievances. Once a correctional jurisdiction establishes an efficient administrative grievance procedure, however, a co-existing ombudsman may have the time and resources to initiate examination of procedures and policies that will lead to enhanced administrative efficiency. This has been the experience elsewhere:

> One significant development in the institution of the Ombudsman is the shift of its main purpose. The original purpose for adopting the Ombudsman system was to provide the individual citizens with an office where they could lodge complaints against administrative decisions and through which they could get their grievances redressed. However, in examining the action taken on complaints for which remedies were afforded each year in the five countries under consideration, it is noted that this main purpose has become a by-product of the Ombudsman's activities. The main purpose of the Ombudsman has has become promotion of better public administration.[23]

The following are some of the principal points to remember in fashioning the design of an ombudsman program:

1. There is no such thing as an "internal ombudsman." The concept of ombudsman inherently involves independence of the agency monitored.

2. The ombudsman has only the limited powers of investigation and recommendation. In the design, he must be given the broadest possible authority to conduct investigations, by including the right to enforce cooperation with those investigations through judicial means. He also must be given the broadest possible authority to make recommendations to the legislature and the public.

3. The ombudsman operates best when there is a functioning, efficient administrative procedure available for the initial handling of grievances.

4. There is no consensus concerning the specific qualifications that will best equip an individual to serve as an ombudsman.

Section 2. Grievance Procedures

Grievance procedures in correctional institutions generally have taken the form of a multi-level appeal process. At the institutional level, a designated individual or committee considers complaints that are submitted in writing and usually makes recommendations to a decision-maker, i.e., the superintendent. If the grievant is dissatisfied with the response, he usually may appeal for a review of the decision at a higher level, usually within the department of corrections. In some instances, he may appeal the departmental decision to some form of external review, which is advisory to the superintendent or departmental director.

The preceding consideration of the ombudsman concept and its implementation in corrections demonstrates some of the confusion that exists over ways of handling inmates' complaints. A number of jurisdictions have tried to use the ombudsman model as an "internal" administrative mechanism for handling grievances. In its original context, however, the ombudsman was created as an "external" resource to ensure the proper functioning of existing "internal" administrative channels. For an ombudsman to be successful, there must be an "internal" channel to monitor.

On the other hand, there is a growing number of correctional jurisdictions that are creating "internal" administrative procedures for handling grievances that include "external" elements. While there is little prospect of success for "internal" ombudsmen, the record of administrative procedures that include "external" elements is more promising. These "external" elements reflect a recognition on the part of administrators of the seriousness of the credibility problem in the correctional environment. Illinois, Maryland, North Carolina, Wisconsin and the California Youth Authority, all have included some form of outside review in their administrative grievance procedures.

The procedure adopted by the United States Bureau of Prisons in Policy Statement 2001.6A (October 18,

1974) is illustrative of the completely internal grievance procedure. In Federal prisons, a formal complaint is filed with a designated institutional employee; if the grievant is dissatisfied with the response, he then files for review by the director of the Bureau of Prisons. The design of the procedure followed by the California Department of Corrections is essentially identical to that of the Bureau of Prisons.

Of those procedures involving "external" elements, the Illinois approach is the most tentative. In Illinois, the Administrative Review Board, a three-member panel that makes recommendations to the director, has one member who is not employed by the department.[24] At the other extreme is the Maryland Inmate Grievance Commission where a panel of five members, none of whom is employed by the department, makes recommendations to the director.[25] In Illinois the one non-employee member of the Board is appointed by the director of the department; in Maryland the five members of the Commission are appointed by the Governor, with the advice of the Secretary of Public Safety and Correction.

In Wisconsin, a member of the Attorney-General's office acts as the Corrections Complaint Examiner, responsible for reviewing all appeals from the institutional level.[26] The recommendations of the CCE are advisory to the director of the division of correction. The CCE is appointed by the Attorney General with the advice and approval of the Department of Health and Social Services.

In the California Youth Authority procedure, appeals may be taken to a tripartite panel consisting of a volunteer professional arbitrator from the community, who serves as chairperson, one member appointed by the grievant and one member appointed by the institution, or, where appropriate, the departmental administrator.

The Ohio grievance procedure does not require the direct participation of non-correctional personnel in the making of decisions, but it does require that the departmental ombudsman (one of the "internal" variety) be kept informed of the progress of grievances through the departmental procedure.[27]

The design of grievance procedures generally includes time limits for responses to submitted grievances. The value of time limits, which serve to put all involved parties on notice as to when a response may be expected, is great, especially in an institutional setting. The manner in which time limits have been incorporated in the design of procedures varies. In the Maryland procedure, for example, time limits are not applied until a recommendation is made to the Secretary of Public Safety and Correctional Services.

Most procedures are similar to the Maryland approach in that they apply a time limit at one or more levels of a multi-level procedure, but not at all. The most common design variation (e.g., in the Illinois and Ohio procedures) is that of requiring time limits at each level except the final step. The unwillingness to hold departmental directors to a strict time limit probably reflects the reluctance of drafters to subject their superiors to time constraints in responding to challenges of fundamental policy. Some designs (e.g., in the Bureau of Prisons and the California Youth Authority) include time limits at each level of the procedure.

Protests that tight time limits are impractical and create unmanageable administrative burdens are refuted by the experience of the Bureau of Prisons, which, with a few exceptions, is meeting its tough time limits in spite of problems of distance and communication that dwarf those of most jurisdictions. The California Youth Authority has had similar success in meeting even tougher time limits imposed by its procedure, which allows less than thirty days to provide a complainant with a final response, including review of the grievance by an outside review panel.

There is another aspect to the time problem that may be more important than the stated limits. Procedures generally do not detail the recourse available to an inmate whose complaint is not answered within the designated time frame. If time limits are to have any meaning, they must be enforceable. The most common way to ensure enforcement is to permit the complainant to proceed to the next level of the procedure if the response is not timely.

In the California Youth Authority procedure, an inmate automatically may submit his grievance to the next highest level of review if he has not received a response within the stipulated period of time. The limits may be extended by mutual agreement at each level. This requirement for mutual agreement on extensions is in sharp contrast to most procedures, which permit the administration to extend time limits unilaterally at most levels of the procedure.

The Bureau of Prison's procedure states that failure to respond to a grievance should be construed as denial of the complaint, indicating presumably that an institutional "denial" resulting from the lack of a response within the procedural time frame can be appealed to the director. The Ohio procedure allows an inmate to resubmit to the institutional grievance officer a grievance that has not been responded to by the staff member originally presented with the complaint.

Another consideration of time frequently overlooked in the design of grievance procedures is a provision

dealing with emergency problems. Examples of emergencies in the correctional context include actual or threatened physical or sexual assault or the immediate loss of privileges, such as a furlough, irretrievable if submitted to the regular operation of a procedure. Each design should include a way of handling such complaints on an accelerated basis, as is done in the Bureau of Prisons procedure, which establishes a 48-hour limit for a reply when "the complaint is of an emergency nature and threatens the inmate's immediate health or welfare."[28] Procedures in Wisconsin and the California Youth Authority have similar provisions.

Another element of design to be considered is whether the procedure includes the opportunity for a hearing at any level. Some procedures, e.g., those in the California Department of Corrections, Kansas and the Bureau of Prisons allow resolution of complaints with no direct contact with the grievant required except that of notifying him of any action taken. In this respect these procedures resemble the design of the ombudsmen, except that the procedures usually have some time limits, while the ombudsman usually has none.

On the other hand, the Illinois and the California Youth Authority procedures, both of which require hearings at a lower level of the process, also allow for the possibility of a second hearing for an inmate dissatisfied with the institutional response to his grievance. In the Illinois procedure, if the inmate appeals to the director of the department, the latter has the option of referring the case to an Administrative Review Board. The Board then has the responsibility of holding a hearing on the grievance and submitting a recommendation to the director. In the California Youth Authority procedure, the outside review panel, the final appellate level, normally holds a full hearing.

In other procedures that provide for hearings, the decision of whether to hold one is left with personnel responsible for the operation of the procedure. The Maryland Inmate Grievance Commission places the determination on whether to have a hearing in the hands of the Commission's Executive Director, who makes a preliminary investigation of submitted complaints. If he decides there is possible merit to a grievance, it is scheduled for a hearing before the commission.

In Ohio, the Resident Liaison Officer, who is the key individual at the initial level of the procedure, makes a determination as to whether the complaint should be referred to the hearing board. In Wisconsin, a hearing may occur after the warden of the institution has failed to satisfy the grievant, if the Corrections Complaint Examiner (a member of the Attorney General's staff) decides that a hearing is necessary. The recommendations resulting for such a hearing are made to the Administrator of the Division of Corrections.

Procedural rules for the conduct of hearings universally are left in the hands of the bodies conducting the hearings. None of the procedures require adherance to formal rules of evidence, and questions governing the calling, examination, swearing, etc. of witnesses, as well as the scheduling of hearings, also are left to the various committees or boards.

This arrangement is no accident. The emphasis in an administrative grievance procedure is on finding solutions to problems, not on due process. The latter represents the effort to ensure fairness through procedural safeguards in decisions involving deprivations. Every decision adverse to an inmate in a disciplinary procedure, for example, involves a loss, grievous or otherwise, and the purpose of elaborate due process requirements is to make the process of deprivation as fair as possible.

Obviously "fairness" is also a central consideration in a grievance procedure, but fairness in such a procedure depends on much broader consideration than rules for holding a hearing. One prime factor in establishing the fairness of such a procedure is whether there is a requirement for a hearing at all. Beyond such a basic requirement, it is important to leave the rules governing the conduct of such hearings to the board or committee or panel itself. Only in a minority of cases will the complaint involve adjudication of contested facts; much more often, grievance hearings will revolve around disputed means of resolving a problem most expeditiously. In the latter type of case, a requirement for full trial-type hearings frequently can impede rather than further satisfactory remedies.

The manpower requirements of different procedures vary greatly. Several designs designate an institutional staff member (or members) to provide first level contact and preliminary investigation for any grievances filed. Two states, Wisconsin and Ohio, have the designated staff members working full time at grievance investigation and resolution. Two other states, Illinois and California Department of Corrections (as of mid-1974), use only a portion of any one staff member's time in investigation or resolving grievances.

Only two procedures, Wisconsin and California Youth Authority, allow inmates to participate in the investigation of grievances. In Wisconsin, a warden has the option of referring a grievance or complaint to the Complaint Advisory Board. The CAB, a four-member committee, composed of two inmates and two staff, reports its recommendations to the warden. In the Youth Authority, a five-member committee in each living unit,

composed of two inmates, two staff and a non-voting chairman (usually the living unit supervisor), hears grievances. If the complaint involves living unit policy, the committee normally can make a decision, but if the complaint involves institutional or departmental issues, the committee makes recommendations to the superintendent or director. At the final level of the procedure, one member of the panel is appointed by the complainant and may be another inmate.

The unusual level of inmate input into the Wisconsin and California Youth Authority procedures, coupled with the provision of outside review, probably explains more than any other factor the high rating in credibility achieved by these two procedures in the Center's questionnaire.

Based on the Center's observations, experience and research, the following basic points must be considered in the design of an administrative grievance procedure:

1. To ensure the greatest possible credibility of the procedure among inmates, there must be outside (i.e., noncorrectional) review of grievances at some level.

2. There must be time limits at every level and they must be as tight as is realistically possible.

3. Each grievance must be responded to in writing together with an explanation of reasons in the event the complaint is rejected.

4. Every procedure must have special provisions for handling emergencies.

5. Procedures must provide for a hearing at some level.

6. Attempts must be made to include as much inmate participation as possible in the resolution of grievances; the greater the level of participation, the higher the level of credibility.

7. Attempts also must be made to include line staff participation for the same reason.

Section 3. Inmate Councils

Ombudsmen and formal grievance procedures are new to corrections; inmate councils are not. While there is the inevitable controversy over whose program came first, it would appear that the Massachusetts Correctional Institution at Norfolk has the oldest, continually operated inmate council in the United States. Established by a reform superintendent in 1927, the Norfolk council adopted a revised constitution in 1971 identifying the council's purpose as the promotion of harmony and improvement of the general welfare.

By 1966 the American Correctional Association was recounting for its members the benefits to be derived from such organizations:

> One of the most significant privileges which can be extended to persons confined is opportunity to take some limited responsibility for the planning and operation of the institution program. Opportunity for participation in constructive social action while under custody, usually in the form of an inmate advisory council, can be one of the most successful and effective means for developing high institutional morale and good discipline.[29]

A more recent review prepared for correctional administrators, which summarizes the changing status of the legal rights of prisoners, repeats the endorsement of the ACA manual, while promoting what it calls the concept of "maximum feasible participation:"

> This term means little more than the notion that those who are allowed a voice in the rule-making process are more likely to obey such rules. It does not mean that the prisons would be run by a town meeting of the cell blocks or even that there would be any real power given to inmates to control the prisons. All that is implied by the notion is that at some point along the line the inmate, either individually or through a representative, is allowed to make a meaningful input into the decision-making process that surrounds him with rules. One means of accomplishing this goal would be the establishment of an inmate council with elected representatives. Such a council should be able to present questions to the administration concerning various rules and practices of the institution and receive a straightforward answer. If such an answer cannot be given, then there should be serious doubt concerning the utility of the rule. The inmate council would then be able to accept the explanation or suggest alternatives for the consideration of the administrators.[30]

Endorsements like these have been persuasive. In its 1973 survey of correctional institutions for adults, the Center for Correctional Justice found that 56 percent of responding institutions had operating inmate councils.[31]

The primary function of inmate councils is advisory; they serve generally as sounding boards for the administration. Used effectively, they can lead to policy-making that is more responsive to the interests and desires of inmates. While there has been some discussion about and experimentation with the parceling out of some bona fide management responsibilities to inmates,[32] to date almost all administrators have adhered to the guidelines of the ACA:

> The inmate advisory council's functions always remain advisory. No actual administrative powers are ever delegated to it. The council encourages, develops, and supports projects for the general welfare of inmates, but all responsibility for management remains in the hands of regularly employed personnel.[33]

The advisory nature of inmate councils, like that of ombudsmen, is frequently a disappointment to inmates who want councils to make decisions, not offer advice. The result is that inmate councils repeatedly are condemned by inmates for their inability to bring about change directly. Characteristically, they are dismissed as "powerless." In fact, the "power" of an inmate council, again like that of an ombudsman, depends largely on the responsiveness of administrators to its recommendations. When an administration is committed to and supports a council, it can be a useful means of providing inmate input (i.e., point of view) into institutional policy.

Tension arises when inmates, participating in an advisory council, expect to have a major share in the *formulation* of policy, while the administration expects the function of the council to be purely advisory. The ability of an administration to reconcile meaningful inmate participation in policy-making with the need for security and control determines the success of an inmate council. Bereft of responsibility, councils tend to become what inmates are fond of calling "pacifiers," that is, used by administrators to funnel favors to cooperating participants. When council members receive trips to the outside community, inclusion in special educational programs or work positions or quick transfer to minimum security facilities, the excluded population tends to view council members as self-interested hustlers.

While it may or may not be possible to create councils that promote effective and credible inmate participation in the management of correctional institutions, it is far more difficult to design a council structure that adequately handles the individual complaints of inmates. By its very nature an inmate council deals with institutional problems. It presumes a collective identity in an environment that traditionally has emphasized individuality as the key to survival and presents little opportunity for the presentation of individual grievances. Wisely, most inmate councils prohibit consideration of individual complaints during meetings in order to prevent council hearings from becoming personal interest forums. For example, the South Carolina council rejects individual complaints, consideration of which it views as obstructive of its principal goal, the advocacy of new or changed institutional policy. This approach excludes a substantial portion of inmates' grievances from the jurisdiction of the mechanism.

Some inmate councils have attempted to overcome this problem and handle individual complaints directly. One of these is the Resident Government Council at Washington State Penitentiary in Walla Walla, which includes a People's Action Committee (PAC) specifically designed to respond to the grievances of individual inmates. The committee includes representatives from each living unit who help fellow inmates obtain relief or remedy for their problems. At a weekly meeting of these representatives, unresolved complaints and common problems are discussed. The chairman of the committee acts like a ward politician, suggesting ways of procuring resolutions of unanswered grievances.

In some instances, the PAC undoubtedly is effective, especially in cases arising from direct conflicts among fellow inmates and between inmates and line staff. On the other hand, in dealing with problems, solutions to which lie entirely in the hands of the institutional or departmental bureaucracy, the PAC is considerably less effective. This becomes critical since there is no formal appeal process; there are no time limits; there are no records of submitted grievances. Inmates at Walla Walla long have been sensitive to these deficiencies and have been agitating for the creation of a grievance mechanism since at least early 1972. One of the principal complaints against the original constitution of the inmate government took the form of a plea for outside review: "the avenues of chaneling (sic) our proposals have been often stopped right at the front door of this institution."[34] Revisions in the constitution proposed in mid-1974 called for the creation of both an administrative grievance procedure and a state-wide ombudsman for corrections.

For all of the problems in the use of an inmate council as a grievance mechanism, there is one aspect in which it can serve as a model. Because an inmate council is operated by fellow inmates, grievants in the general population are far more willing to submit complaints to it, whether or not they are likely to receive a favorable response—or any response at all. Responses to the Center's questionnaire revealed that inmates were more willing to use inmate councils (as a class or type of mechanism) to resolve grievances than any other basic type of mechanism. It is difficult to determine whether this increased willingness to submit problems to a council is due to greater awareness of its existence (through personal orientation of inmates by council members) or to reduced fear of staff reprisals; most likely it is a combination of both. Whatever the reason, inmates apparently would rather approach other inmates with their complaints than non-inmates—even if the latter are totally independent of the correctional system.

An overall assessment of the effectiveness of inmate councils currently in operation as grievance mechanisms has to be negative. Essential elements for an effective grievance mechanism, such as written, timely responses and outside review, nowhere have been built into a council. This is not to say that an inmate council never can serve as an effective grievance mechanism; it does mean that the structuring of a mechanism to fit within

the framework of a council is a difficult task and one for which no model currently exists in corrections.

Section 4. Labor Model Procedures

In a typical industrial relations or labor model grievance procedure, the first step usually involves the employee, with or without his union representative, and his foreman. A second level typically brings together the employee, the shop steward (a union official), and a higher-level plant supervisor, who together attempt to resolve the complaint. Thereafter, if the union chooses to pursue the matter further, the plant bargaining committee normally will take up the grievance with top management. Lastly, the union may decide to take the matter to arbitration, where a professional, neutral arbitrator makes a decision that is binding on all parties and enforceable through court action.[35]

In the industrial setting, a grievance procedure is part of the contract entered into by union and management. The procedure is the mechanism by which contract disputes are resolved; it provides a method for rendering a final interpretation of the terms of the contract.

Difficulties in applying labor model grievance procedures to corrections should be obvious. An immediate one is the importance of the contract to the industrial model. In corrections there is no comparable agreement to govern the relationship between inmates and the correctional system, and it would be difficult to create one. Institutional life is total. It embraces far more than rates of compensation and conditions of employment; it includes a broad gamut of mutual relationships among inmates, staff and administrators arising from incarceration. Attempts to define contractually all of these institutional relationships would result in an unwieldy document. On the other hand, a contract restricted to compensation and conditions of prison employment would leave uncovered major problem areas of prison life.

Another difficulty in applying the industrial model to prisons is the absence of an independent inmate organization comparable to the union, so necessary to the prosecution of an industrial grievance. In the labor model, as soon as a grievance has risen above the first level, union representatives decide whether appeal of the grievance should be pursued through intermediary levels and on to arbitration. The individual's grievance becomes, in effect, the union's grievance and at stake is the fundamental meaning of the union's relationship with the employer as defined in the contract. Heretofore, the kind of inmate organization necessary to support such a procedure in correctional institutions has been rejected firmly by correctional administrators.

Rejection by administrators of the idea of prisoners' unionization has not deterred prisoners, however. Within the last three years governmental agencies charged with regulating public employment in at least three states (New York, Massachusetts and Michigan) have considered petitions from organizations seeking recognition as collective bargaining units for prisoners. In all three instances the petitions were turned down, but the seeming unanimity of decision was more apparent than real.

In both New York and Massachusetts, numerous real indications of an employer-employee relationship between the institution and its inmate maintenance and industrial workers were acknowledged, but the rehabilitative purpose accorded to prison employment under the two states' prison-industry statutes was found to be controlling.[36] In Michigan, however, two of the three voting members of the Public Employment Relations Board held that a *bona fide* employer-employee relationship did exist, but since one of the two held that the effect of the relationship was to make prisoners civil servants of the state rather than public employees, the board was said to lack jurisdiction.[37]

In the one effort to date to seek legal recognition for a "union" of prisoners outside the structure of a public employment statute, a Connecticut group was rebuffed by a Federal district court, which held that the constitutionally protected right of association did not apply to prisoners attempting to act in concert.[38] Since the "union" advocated by plaintiff was defined in the vague terms of a representative inmate council, rather than as a traditional labor union, the impact of the case is questionable.

The effort to obtain public employment status for a prisoners' union in New York resulted in at least one explicit judicial dictum that the right of prisoners to organize was not barred by the Constitution. In a concurring opinion sustaining the right of union attorneys to communicate through uncensored mail with prisoner clients in regard to establishment of a union, Judge Oakes of the U.S. Court of Appeals for the Second Circuit observed:

> There is nothing in Federal or state constitutional or statutory law of which I am aware that forbids prison inmates from seeking to form, or correctional officials from electing to deal with, an organization or agency or representative group of inmates concerned with prison conditions and inmates' grievances.[39]

For well over five years, the Prisoners' Union, an organization of "convicts and ex-convicts" claiming a membership of 20,000, has been attempting to organize

prisoners in institutions in California and elsewhere. The Prisoners' Union rejects the public employment approach, but has yet to articulate a cohesive legal goal. While observing the technical requirements of the National Labor Relations Act (e.g., the collection of signed authorization cards from inmates recognizing the Prisoners' Union as their agent for bargaining with the correctional administration), the organization has not sought either state or federal recognition. The union's publication, *The Outlaw*, is one of the most widely distributed newspapers for prisoners in the country.

In New England in 1972, the National Prisoners' Reform Association was organized in Rhode Island and chapters were established in Massachusetts and Maine. Almost immediately, the NPRA sought public employment status for prisoners in Massachusetts, as related above, where its bid was rejected by the Commonwealth's Labor Relations Commission. In 1972, during a period of disturbances at Walpole, the NPRA won an election supervised by the National Center for Dispute Settlement of the American Arbitration Association and became the officially sanctioned bargaining agent for Walpole inmates in continuing negotiations with the Massachusetts Department of Correction. Thereafter, the Walpole administration dealt directly with NPRA but in much the same way it would have with an inmate council. The efforts of NPRA to exercise broader powers in Walpole have been consistently thwarted and the early popularity of the organization among inmates is reportedly on the wane.

In Rhode Island, NPRA early relinquished hopes for establishing itself as a collective bargaining agency with the corrections administration. The emphasis of the program now is almost entirely on job preparation and employment help for inmates who are about to be released. In its relation to the administration, NRPA functions much like other prison self-help groups. In the summer of 1974, NPRA was about to revive a committee to handle individual complaints, but it generally eschews the handling of personal grievances.

The appropriateness of the union concept for prisons is clearly a controversial issue. And arguments in behalf of prisoners' unions are not confined to radical groups of inmates and ex-offenders. As early as 1972, prominent union officials, correctional administrators, ex-offenders, labor arbitrators and mediators, and correctional reformers met in Washington, D.C. to consider alternatives to violence in prisons. Among the alternatives considered seriously, if not endorsed, by the conference was the union concept. Most conference attendees urged the formulation of model legislation which would provide, as a matter of legislative principle, the right of prisoners to organize and to establish grievance procedures for the peaceful resolution of prison conflict.[40] Administrators currently reluctant to consider the implementation of effective grievance mechanisms in their systems might do well to ponder the future potential of the conference's position.

Notes for Chapter IV

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2. Lance Tibbles, "Ombudsmen for American Prisons," 48 *North Dakota Law Review* 384, 246 (1972).
3. The Correctional Association of New York Newsletter, January-March, 1973, p. 3.
4. See, e.g., Judge Donald P. Lay, "Corrections and the Courts." *Resolution of Correctional Problems and Issues*, Volume 1, No. 1, Fall, 1974, p. 11; The Academy for Contemporary Problems, the Group for the Advancement of Corrections, Toward a New Corrections Policy: Two Declarations of Principles, 1974, p. 10; National Advisory Commission on Criminal Justice Standards and Goals, Volume on Corrections, 1973, p. 57; National Association of Attorneys General, Committee on the Office of Attorney General, Special Report: Prison Grievance Procedures, 1973, p. 14; National Council on Crime and Delinquency, A Model Act for the Protection of Rights of Prisoners, 1972, p. 18; Timothy L. Fitzharris, A Report to the Assembly Interim Committee on Criminal Procedure: The Desirability of a Correctional Ombudsman, 1971, p. 44.
5. California Youth Authority Research Division, Final Evaluation of Ward Grievance Procedure at Karl Holton School, November, 1974, p. 52.
6. Ohio Department of Rehabilitation and Corrections Administrative Regulation 845: Grievance Procedure for Inmates 1973, paragraph 14. A mid-1974 revision of the regulation deleted the paragraph because experience indicated that it was not necessary.
7. See, e.g., Bureau of Prisons Policy Statement 2001.6A, 10-18-74, Administrative Remedy of Complaints Initiated by Offenders in Bureau of Prisons Facilities, p. 3.
8. California Youth Authority Research Division, Final Evaluation of Ward Grievance Procedure at Karl Holton School, November, 1974, p. 46-7.
9. Ombudsman Papers: American Experience and Proposals, Stanley V. Anderson, Institute of Governmental Studies, University of California, Berkeley, 1969, p. 2.
10. D. C. Rowat, "The Parliamentary Ombudsman: Should the Scandinavian Scheme be Tramsplanted?", 38 International Review of Administrative Sciences 399, 404 (1962).
11. See e.g., Walter Gellhorn, When Americans Complain, Harvard University Press, Cambridge, 1966; Stanley V. Anderson, Ombudsmen for American Government?, Prentice Hall, Englewood, N.J., 1968.
12. Ombudsman Committee of the Section of Administrative Law of the American Bar Association, Development Report, July 1, 1973-June 30, 1974. This contains a listing of both international and United States ombudsman and ombudsman-like programs.
13. Ombudsman Committee of the Section of Administrative Law of the American Bar Association, Model Ombudsman Statute for State Governments, 1974, p. 4.

14. Iowa Statutes; Chapter 601 G, Code 1973 amended by Sen. File 73 (1974).
15. *Ibid.*, p. 1.
16. Executive Order No. 14, February, 1972.
17. Minnesota Statutes, 1971, Chapter 241.407 et. seq. (1973).
18. Agreement between Hartford Institute of Criminal and Social Justice, Inc. and Connecticut Department of Correction re: Connecticut Ombudsman Program, Sept. 12, 1973.
19. Senate Bill No. 72, section 52, (1974).
20. Model Ombudsman Statute for State Governments, *Ibid.*, p. 4.
21. Alfred Bexelius, "The Origin, Nature, and Function of the Civil and Military Ombudsman in Sweden," 377 Annals of the American Academy of Political and Social Science 10, 18 (1968).
22. Hing Yong Cheng, "The Emergence and Spread of the Ombudsman Institution," 377 Annals of the American Academy of Political and Social Science 20, 22 (1968).
23. *Ibid.*, p. 23.
24. Illinois, Department of Corrections, Administrative Regulation 845. A second, current member of the panel is the department's Prisoner Advocate, an ex-offender.
25. Article 41, §204F, Maryland Code Annotated.
26. Wisconsin Department of Health and Social Services, Division of Corrections Regulation on Inmate Complaint Review System, November, 1972.
27. Ohio, Department of Rehabilitation and Correction, Administrative Regulation 845 (Rev. August 1, 1974).
28. Bureau of Prisons Policy Statement 2001.6A, *Ibid.*, p. 3.
29. American Correctional Association, Manual of Correctional Standards, Third Edition, 1966, p. 547.
30. South Carolina Department of Corrections, The Emerging Rights of the Confined, 1972, p. 94.
31. Virginia A. McArthur, "Inmate Grievance Mechanisms: A Survey of 209 American Prisons," *Federal Probation*, December 1974, p. 44.
32. For an example of the discussion, see T. O. Murton, P. J. Baunach and K. Demorest, Shared Decision-Making as a Treatment Tool in Prison Management, The Murton Foundation for Criminal Justice, Inc., December 1974; an example of experimentation in this area is the work being done at O. H. Close School in Stockton, California, a California Youth Authority institution.
33. ACA Manual, *ibid.*, p. 458.
34. *The Voice of Prisons* (the inmate newspaper at Walla Walla), December 7, 1972, p. 71.
35. For a general treatment of grievance procedures in the industrial context, see R. A. Smith, L. S. Merrifield and D. P. Rothschild, Collective Bargaining and Labor Arbitration, Bobbs-Merrill Company, Inc., 1970, pp. 355 ff.
36. In re Prisoners' Labor Union at Green Haven, State of New York Public Employment Relations Board, Case No. C-0794 December 18, 1972; In re Walpole Chapter of the National Prisoners' Reform Association, Commonwealth of Massachusetts Labor Relations Commission, Case No. SCRX=2, September 24, 1973.
37. In re Prisoners' Labor Union at Marquette and Prisoners' Labor Union at Jackson, Michigan Employment Relations Commission, Case Nos. R72 E-163, C72 E-81, R72 F-214, C72 F-108, March 19, 1974.
38. Paka v. Manson, Cf. #12, p. 13.
39. Goodwin v. Oswald, 462 F. 2d. 1237, 1245 (2nd. Cir. 1971).
40. National Council on Crime and Delinquency, Peaceful Resolution of Prison Conflict, 1973, p. 98.

CHAPTER V. IMPLEMENTATION: THE CRITICAL FACTOR

There is a steadily growing body of literature on the design of grievance mechanisms for correctional institutions, in which the pros and cons of various approaches are debated by lawyers, professors, and researchers. Unfortunately, these reports and articles focus almost entirely on the written formulations for such mechanisms, suggesting thereby that the critical element in creating effective programs for the handling of grievances is design.

Developing a successful mechanism is far more complex. For example, a single, well-designed mechanism can be applied with complete success in one institution and with total failure in another. In Wisconsin, the same Inmate Complaint Review System functions extremely well in the Wisconsin State Prison (Waupun), and poorly at the Wisconsin State Reformatory; the correctional investigator of the Iowa Citizens' Aide, clearly one of the best *designed* ombudsman programs in the country, operates with moderate success at the Men's Reformatory (Anamosa) and with total ineffectiveness in the state's juvenile institutions. The message is clear: design may be important, but good design alone does not guarantee an effective mechanism.

Successful implementation of a grievance mechanism requires strong administrative leadership committed to the introduction of a program that will work. There is powerful resistance to grievance mechanisms in correctional institutions; and only a massive effort embracing the kind of planning, training, orientation and evaluation invested, for example, in the reorganization of a departmental structure can hope to overcome that resistance. The following implementation guidelines, derived from observations and interviews conducted by the Center in the course of its survey of innovative mechanisms, represent the opinions and analyses of many different administrators, institutional staff members and inmates in institutions all across the country.

Section 1. Planning

An effective grievance mechanism necessarily involves hard decisions on the part of an administrator. Essential concepts include the independent review of the decisions of correctional managers and the meaningful participation of inmates and line staff in the operations of the mechanism, neither of which is widely accepted among most correctional workers. The first difficult decision an administrator must face is whether to embrace these concepts. It may make the choice easier to point out that, to date, there are no successfully operating grievance mechanisms anywhere in corrections that do not include some form of outside review and that, among successful mechanisms, those that include staff and inmate participation are the most effective.

Administrators may be tempted to reject this conclusion, since it means an inevitable increase in the difficulty and cost of introducing successfully an effective mechanism. When faced with the choice, most administrators, precisely in order to avoid these difficulties, have opted for purely internal mechanisms. Their preferred alternatives, however, have been notably unsuccessful.

Once a top administrator decides to introduce some kind of grievance mechanism with outside review and participation, he should analyze the ways in which institutions in his jurisdiction currently handle grievances, as well as the amount and kinds of complaints common among inmates in his system. Different basic categories of inmate problems will require different approaches. Five broad categories of potential complaints (with considerable overlapping between them) can be identified:

a. *Legal*, including post-conviction, civil and institutional problems;

b. *Discipline*, including the bulk of disputes arising from interpersonal contact between line staff and inmates;

c. *Classification and parole*, including complaints about program and institutional placement and all matters relating to parole;

d. *Bureaucratic*, including problems arising from the application of departmental, institutional, and living-unit rules, regulations, policies; and

e. *Policy*, including disputes over the substantive content of departmental, institutional, and living-unit rules, regulations, policies.

No single procedure or program can handle this broad array of problems, and attempts to create one mechanism responsive to them all will fail. Some kinds of

mechanisms or programs are more suitable for the handling of specific categories of complaints than others:

a. *Legal:* programs for the delivery of legal services, e.g., by a university-based clinical program, local legal aid or public defender service, a volunteer program of the local bar association, or an independent state-supported corporation.

b. *Discipline:* procedures incorporating those elements of due process and appeal mandated by the courts. Appeals could be handled through administrative grievance procedures.

c. *Classification and parole:* administrative grievance procedures. Where parole is within the jurisdiction of a separate agency, corrections officials should strive for a common procedure with the separate agency, so that the same procedure can handle classification and parole problems.

d. *Bureaucratic:* administrative grievance procedures.

e. *Policy:* administrative grievance procedures and/or inmate councils.

Ideally, each correctional institution should possess a program for the delivery of legal services; a disciplinary procedure that provides due process; an administrative grievance procedure that handles classification and parole, bureaucratic, and policy problems; an inmate council for broad policy matters; and an ombudsman to monitor the whole system.

Armed with an analysis of likely complaints and appropriate resources for handling them, a departmental administrator can plan the comprehensive development of his mechanism. Overall plans for successful implementation should include:

a. A program for winning the commitment of institutional administrators to the principles of outside review and participation. Key to the success of a mechanism is the leadership provided at the institutional level by the superintendent or warden. Institutional administrators must be convinced that the development of effective mechanisms involves their vital interests.

An example of such a program involved the sending of all California Youth Authority superintendents and assistant superintendents to a week-long seminar on dispute settlement, conducted by the Institute for Mediation and Conflict Resolution in New York City, one of the best community disputes training resources in the country. Administrators returned from the seminar to their institutions with a new awareness of the meaning, complexity, and applicability of conflict resolution techniques.

b. The creation of a set of guidelines or standards for the development of institutional mechanisms throughout the entire system: These standards need not be too detailed, since their purpose is to establish limits within which each institution or program unit may construct its own mechanism. The publication of a regulation or policy statement establishing a new departmental grievance mechanism that includes a description of every minute procedural detail (usually in legal jargon) is unnecessarily restrictive and leaves no room for institutional variation or contribution. Line staff and inmates habitually resent the imposition of such procedures concocted at remote departmental headquarters without input from the institution or consideration for the peculiar needs of different institutions within the department.

c. The selection of a single institution within the jurisdiction in which to introduce a prototype of the mechanism on an experimental basis: It is probably more efficient to introduce a mechanism incrementally, that is, on an institution-by-institution basis, rather than in all institutions within a department simultaneously. Incremental implementation creates practical models, which can do more to allay staff and inmate apprehensions in other institutions than any amount of verbal assurances. The best propagandists for a grievance mechanism, moreover, are staff members and inmates who have been exposed to or involved in an effective one. Such personnel also provide a valuable cadre of design, training and orientation specialists that can be extremely useful during expansion of the mechanism to other institutions within the jurisdiction. Finally, initial experimentation and gradual expansion have the additional advantage of providing opportunity to evaluate and, where necessary, to modify a mechanism before it has been introduced system-wide.

d. Supervision of the planning and delivery of training and orientation for each institutional mechanism, especially for the experimental institution or program unit: Subsequent expansion of the mechanism will require the development and coordination of department-wide training and orientation programs.

e. The creation of evaluation and monitoring components for the grievance mechanism: This will require the development of a capability for review at the departmental level and possibly by an independent, outside resource of the way in which complaints are handled by the mechanism. Such a requirement makes the existence of adequate written records an absolute necessity and does much to explain the requirement for submission and disposition of complaints in writing.

The purpose of monitoring is threefold: (1) to ensure that procedural requirements are being followed, (2) to ensure that decisions obtained through the mechanism are implemented, and (3) to prevent reprisals for use of the mechanism.

The degree of comprehensive planning involved in the implementation of mechanisms observed by the Center for this study varied greatly. In the State of Washington, a newly appointed top administrator for corrections announced the creation of a broad new program for inmate self-government at one of his first news conferences. Reportedly, institutional administrators, staff and inmates first heard of the new program by reading their local newspaper. This abrupt approach, which was still a sore point among institutional administrators three years later, contrasts sharply with the deliberate pace adopted in the establishment of the Connecticut Ombudsman.

Over 18 months separated the initial decision of the Connecticut Commissioner of Corrections to create an independent ombudsman and the Connecticut Ombudsman's first receipt of a complaint. After selection of the Hartford Institute for Social and Criminal Justice as the agency to run the program, a 12-month period followed in which Institute personnel and consultants elicited the input of each correctional constituency into the criteria governing selection of the ombudsman. Extensive meetings were held with institutional superintendents, as well as representative groups of staff, including the executive committee of the correctional officers' union, and inmates.

A decision was made early to try the program out at the state's maximum security institution (Somers Correctional Institution) and one detention facility (Hartford Community Correctional Center), with expansion to follow if initial results justified it. Once an ombudsman was hired, he spent three months in the two institutions, circulating freely, talking to inmates and staff, and familiarizing himself with the structure, programs and organization of both facilities. Only after this three-month period of orientation was the ombudsman ready to receive and investigate grievances. The results of this effort could be seen in the extremely positive attitude of administrators and line staff at Somers in regard to the ombudsman, who was viewed widely as a valuable addition to the resources of the institution.

Section 2. Training

Whatever the design of a particular mechanism, every grievance mechanism operating in corrections today requires certain skills on the part of those who hold key roles in its operation. Essential skills involve the processes of fact-finding and mediation. For example, an ombudsman, unfamiliar with investigative techniques, cannot easily compile effective reports and recommendations, and an institutional grievance officer who knows nothing about mediation is unlikely to persuade either complainant or administration to agree on mutually acceptable resolutions to grievances.

The fate of a grievance mechanism lies in the hands of key individuals who conduct its operations. If they are successful, the mechanism will flourish; if they fail, the mechanism will falter. This is especially true of mechanisms that rely heavily on one or two key individuals, such as an ombudsman program or a multi-level procedure with an institutional grievance officer who provides first-level review of all grievances. An ombudsman must rely solely on his own resources to conduct his investigations, and the extent of his effectiveness is limited by his capacity to persuade administrators, staff and inmates to accept his recommendations. The effectiveness of an institutional grievance officer can be measured by the percentage of problems he resolves successfully at the first level. If he lacks sufficient fact-finding ability or conciliatory skill, an overwhelming majority of complaints will rise to higher levels, thereby defeating an important practical goal of a grievance procedure, which is settlement of disputes at the lowest possible level.

In view of the importance of fact-finding and mediation to the success of a grievance mechanism, it is incredible that, among the 16 programs observed by the Center for this study, only one (the California Youth Authority Grievance Procedure) provided key personnel with any sort of training in these fundamental skills. This means that individuals assigned key tasks in making grievance mechanisms work must learn the skills vital to their roles through trial and error. Some are succeeding, but others are squandering their fragile credibility with staff and inmates in a difficult search for essential skills.

Part of the reason for the failure to provide training may be due to the feeling, apparently widespread among administrators, that anyone modestly competent and affable can serve effectively as a fact-finder and mediator without any special instruction. Anyone acquainted with the history and operations of mediation and arbitration in industrial relations and community disputes knows better. The burgeoning crop of university and private programs, courses and seminars in "ombudsmanry"[1] and conflict resolution offers evidence of the complex theory underlying the concepts, and the bungled negotiations conducted at Attica in 1971 bear eloquent testimony to the damage well-intentioned, but untrained, mediators can do.

Skillful fact-finding and mediation are arts that require both training and extensive practice. No effective administrator would introduce a radically new treatment program without providing some basic training to the staff members involved in its delivery. The need for

training outsiders, staff members, and inmates in operating a grievance mechanism is just as vital to its success.

Section 3. Orientation

One method used for introducing grievance mechanisms to line staff and inmates is the posting of a policy statement describing the mechanism on central bulletin boards in an institution. Where this approach is adopted, there is likely to be little knowledge of or interest in the mechanism.

At times, the bulletin board approach is supplemented by including a description of the mechanism in an inmates' handbook distributed at the time an inmate arrives at the institution. Both Maryland and Kansas follow this approach, yet in the questionnaires given by the Center staff to a sample of inmates at each visited institution, 86.9 percent of respondents at the Maryland Penitentiary (Baltimore) and 90.3 percent of respondents at the Kansas State Penitentiary (Lansing) denied they had ever received a written explanation of the mechanisms working in their institutions.

In a population where illiteracy is high, where there is a significant percentage of non-English speaking people, and where reading comprehension tends to be substantially lower than in general society, reliance on the written word to spread knowledge of the existence, purpose and function of a grievance mechanism is bound to produce limited results.

Some jurisdictions attempt to provide a verbal description of the purpose and nature of the mechanism during the reception period. Such efforts are not notably successful and candid administrators acknowledge that most newly-arrived inmates are so intimidated by their circumstances and so bombarded with rules, regulations and descriptions of programs that they derive little knowledge from these reception orientation sessions.

The fact is that the best source of information on institutional programs for inmates is other inmates. This may explain partially why, as indicated by responses to the Center's questionnaire, mechanisms involving the participation of inmates are most readily resorted to by inmates. Participating inmates are effective proselytizers for the system in which they function, and they provide a continually available resource for information on the nature, functions and benefits of a mechanism. Thus, the best way of promoting knowledge of the procedure is to include inmates in the operations of the mechanism.

An obvious corollary of this inmate reliance on other inmates for information is that formal orientation programs for new inmates ought to be conducted primarily by inmates. Whatever the type of mechanism involved, inmates who either have been involved in or benefited by its operations should conduct orientation sessions. In addition to giving explanations more likely to be understood by their peers, inmate spokesmen who believe in the mechanism may persuade newcomers to try the grievance process when problems arise.

While the orientation provided inmates generally was found to be inadequate, it was considerably better than that given to staff members. This failure to provide meaningful orientation to staff encouraged a degree of initial hostility that was excessive and unnecessary. Repeatedly, line staff expressed their initial distrust of and apprehension about grievance mechanisms, much of which had dissipated with time. The abatement of apprehension in some instances came from the failure of the mechanism to effect change; in other cases, the ability of the mechanism to produce beneficial change without becoming a vehicle for personal attack against specific staff members worked to reduce staff hostility substantially.

Interestingly, there seems to be no evident relationship between the involvement of outsiders in the mechanism and the degree of staff antipathy towards it. The reactions of staff towards mechanisms in Wisconsin, Connecticut and the California Youth Authority, all of which prominently feature outside review, was generally quite favorable, while considerable dissatisfaction with internal mechanisms was voiced by staff in Oregon and the Bureau of Prisons (Atlanta), where there is no such review.

In order for an orientation program for staff and inmates to be successful, there must be careful planning. Identification of the proper personnel to deliver it, the format in which it should be presented and the time of delivery all require thought and preparation. Key administrators, line staff and inmates should be tapped early to develop such a plan. Once a serviceable plan is completed, institutional administrators have to ensure that the resources to carry out the plan are made available. This means that time must be set aside during which all staff members will be available for orientation. The *direct involvement* and *visible commitment* of the superintednet or warden is vitally necessary if thorough orientation is to occur.

Section 4. Administration

The clerical administration of a grievance mechanism can be a formidable problem. There seems to be no pattern that explains the relative success of particular mechanisms in putting together an effective record-keeping and auditing system. For example, while one ombuds-

man program (Connecticut) keeps excellent records, another (South Carolina) does little more than keep a count of its cases. Yet, within South Carolina, the inmate council documents more of its activity in greater detail than any other council observed by the Center.

The importance of records is critical for purposes of monitoring the effectiveness of a mechanism. By tracing the submission and handling of a well-documented case, an in-house or external monitor can determine whether responses were given to complainants within specified time limits, whether action mandated in responses was executed, and whether grounds exist for allegations of reprisals based on use of the mechanism. Since failure in any of the three areas is likely to lead quickly to the breakdown of a mechanism, administrators must have means to assess performance of the mechanism in these critical areas.

Among the programs observed by the Center, the Maryland Inmate Grievance Commission provided the finest model of clerical administration. The Commission's system for logging complaints, tracking their progress, ensuring responses, and maintaining easily retrievable and usable records was intelligently designed and admirably executed. By contrast, one ombudsman kept scribbled notes on scraps of paper which he discarded at the completion of each case. He had no specific data available on either the kind or quantity of cases he had handled over the past three years.

In most inmate councils and in the California Youth Authority Grievance Procedure, responsibility for maintaining records is left largely in the hands of inmates. In addition to reducing demands on staff time, such a practice increases the sense of involvement of inmates responsible for administering the system. Moreover, the quality of the records kept by inmates compares favorably with the quality of those from mechanisms in which the administrative burden is handled solely by staff. In the CYA procedure, staff members perform a monthly audit of living unit records.

Planning is also important to promote the efficient clerical administration of grievance mechanisms. Careful thought should be given to the design of forms most appropriate to the structure of each mechanism, as well as to the fundamental purpose of records. The proliferation of many different forms often will result in confusion that deters use. In Ohio, for example, 12 different forms, four of which must be completed by the inmate, are required to pursue a complaint form submission to final decision by the departmental director. Staff members, forced to fill in innumerable, complex forms, soon come to view the process as a bureaucratic nightmare undermining opportunities to provide more beneficial forms of help to inmates.

In addition to forms, administrators should supervise the development of concise but informative audit sheets on which the handling of complaints by the mechanism in each living unit and/or institution can be summarized. This will provide a handy means for conducting an internal monitoring of the mechanism, as well as an invaluable management tool for pinpointing real and potential trouble spots. Thus, effective administration of the mechanism can add immeasurably to an increase in basic management efficiency.

Section 5. Evaluation

Administrators institute grievance mechanisms for many reasons, and determining whether a particular mechanism is meeting its intended objectives is not easy. In a 1973 survey of adult correctional institutions, responding administrators identified some of their objectives in establishing mechanisms (ranked in descending order of priority):

a) To provide all inmates opportunities to voice grievances and receive an official response,

b) To assist management by identifying institutional problems,

c) To reduce inmate frustration,

d) To aid in the rehabilitation of inmates,

e) To reduce the level of violence in the institution,

f) To reduce the amount of litigation.[2]

Based on these responses, the Center decided on two fundamental criteria for determining whether a grievance mechanism is working. The first is volume: Do inmates, in fact, use the mechanism to express and seek redress of their grievances? The second criterion is effect: Do complaints submitted to the mechanism result in clarification and change of policies?

These criteria are relative, flexible and contingent. There is no absolute number of grievance submissions that, once achieved, qualifies a mechanism as effective; nor are there specific policy clarifications or changes that, once achieved, make a mechanism successful. Thus, if inmates are willing to use the mechanism available to them and submit numerous grievances to their mechanism, then that mechanism probably can be considered effective. If such a mechanism actually responds to the grievances submitted and, in addition, brings about clarification or change in living unit, institutional and departmental policies, then that mechanism definitely can be considered effective.

Reasons for selecting these criteria are clear. If inmates refuse to submit grievances to a mechanism, for whatever reason, the mechanism cannot provide meaningful opportunity to voice grievances and obtain official response; it cannot identify institutional problems and

thereby improve management; it certainly cannot reduce inmate frustration or promote rehabilitation. Similarly, a mechanism unresponsive to complaints about policy limits the opportunity presented to inmates to voice grievances, impedes the identification of institutional policy problems, and can reduce inmate frustration only partially.

These relative criteria are a temporary and necessary expedient, directly attributable to the fact that the data required for empirical evaluation of grievance mechanisms have not yet been developed. To date, there has been virtually no effort to assess the impact of a particular mechanism on such factors as litigation directed against correctional institutions and intrainstitutional violence and social climate. Only in Wisconsin and in the California Youth Authority have initial efforts been undertaken to collect this kind of data. Until empirical evidence is available, relative criteria, such as those used by the Center, will have to suffice.

It is important that a corrections department decide on its criteria for evaluation of its mechanism early and that it construct a means for measuring those criteria. This is especially true if the department elects to use the incremental approach for implementation of its mechanism as advocated above. A strong evaluation of the performance of the mechanism in an experimental institution can be invaluable in detecting errors of design or introduction, which then can be corrected prior to establishment of the mechanism elsewhere.

Notes for Chapter V

1. By mid-1973, the University of California at Irvine, Syracuse University and Bryn Mawr College Graduate School of Social Work and Social Research offered formal courses on the ombudsman. American Bar Association, Section of Administrative Law, Ombudsman Committee, Development Report: July 1, 1972 – June 30, 1973, p. 46.
2. Virginia A. McArthur, "Inmate Grievance Mechanisms: A Survey of 209 American Prisons," *Federal Probation*, December, 1974, p. 44.

CHAPTER VI. PRINCIPLES FOR AN EFFECTIVE GRIEVANCE MECHANISM

Preceding chapters have analyzed grievance mechanisms operating in corrections from a number of different perspectives. Based on this analysis, the following principles are identified as essential for establishing a mechanism that effectively handles the grievances of inmates in correctional institutions:

1. The mechanism must include some form of independent review, i.e., review by people outside the correctional structure. The more totally independent of official governmental control such review is, the more likely it will be to promote inmates' belief in the mechanism's fairness and their willingness to use it.

2. Line staff and inmates must participate in the design and operation of a grievance mechanism. Only participation can give these critically important constituencies a vested interest in the success of the mechanism. In addition, participation seems to be the only possible way to overcome initial apprehension on the part of line staff and distrust on the part of inmates.

3. The mechanism must have relatively short, enforceable time limits. These limits must apply to both the making and implementation of decisions. Every mechanism also should provide for the handling of emergency grievances.

4. There must be guaranteed written responses for every complaint submitted to the mechanism. Written answers must give reasons for adverse decisions.

5. The implementation of a successful grievance mechanism requires effective administrative planning and leadership. Correctional administrators must take the lead in assessing needs, determining resource requirements and allocating sufficient resources in order to create successful mechanisms. In addition, they must participate actively in an effort to win the commitment of subordinate administrators to establishing effective mechanisms.

6. Administrative, line staff and inmate personnel, key to the operations of a mechanism, must be trained thoroughly in the skills and techniques requisite for the effective investigation hearing and disposition of inmates' grievances.

7. Every institution with a grievance mechanism must develop an effective, persuasive, continuing program for the orientation of staff and inmates to the nature, purpose and functions of the grievance mechanism.

8. There must be a continuing system to monitor and evaluate the effectiveness of each operating grievance mechanism. At a minimum, the monitoring and evaluation system should operate at the institutional and departmental levels; it is preferable that some outside monitoring take place at least periodically.

9. Once a department has tested and evaluated its mechanism thoroughly, it should move to make it a permanent part of its program by having it statutorily enacted in appropriate legislation.

These principles present a framework within which successful grievance mechanisms may be introduced in correctional institutions. Within that framework, there is no precise form or design that must be followed, although some forms obviously can be accommodated more easily to the principles than others.

It is important to remember that there is no prescribed formula that can guarantee success. The enumerated principles are characteristic of successful mechanisms and, conversely, their absence is common among mechanisms that fail. Given an understanding of these principles, correctional administrators can provide effective mechanisms adapted to the needs and circumstances of their own institutions and programs.

The establishment of effective grievance mechanisms in corrections is one of the most challenging tasks of administration and leadership confronting correctional officials today. Without the total commitment of top administration to the concepts of fairness and justice inherent in the implementation of grievance mechanisms, no program for their introduction can succeed. The knowledge and resources sufficient to create viable mechanisms are available; all that is needed is the commitment and the leadership.

APPENDIX A

BRIEF DESCRIPTIONS OF SIXTEEN MECHANISMS SURVEYED FOR THE STUDY

BUREAU OF PRISONS – Administrative Remedy Procedure

1. *Authority:* Bureau of Prisons Policy Statement 2001.6A, October 18, 1974, entitled "Administrative Remedy of Complaints Initiated by Offenders in Bureau of Prisons Facilities."

2. *Starting Date:* The date the policy took effect in all Bureau of Prisons institutions was April 1, 1974. Beginning in September 1973, however, the procedure was pilot-tested in three institutions: those in Atlanta, Georgia; Danbury, Connecticut; and Tallahassee, Florida.

3. *Program Operations:*

Staff: No additional staff is required for the procedure. Complaints are handled by regular staff members.

Population served: All persons in the care of the Bureau, or approximately 23,000 prisoners, are served by the procedure.

Institution visited: U. S. Penitentiary in Atlanta, Georgia–2,100 prisoners.

4. *Method of Operation:* The Administrative Remedy Procedure provides for a formal review of an inmate's grievance after informal methods have failed to resolve the problem. The inmate first discusses the problem with the correctional counselor on duty in the area where the inmate is assigned. If the results of the counselor's informal contacts with the staff and discussion with the inmate are not satisfactory, the inmate may ask for a Request for Administrative Remedy form (BP-DIR-9). He completes the form in triplicate with a description of the grievance, addresses it to the warden, and returns it to the counselor, who gives the perforated receipt portion of the original to the inmate. The institution has 15 working days to complete the response portion of the form and return the original and one copy to the inmate; one copy is placed in the inmate's central file.

When the inmate believes that his complaint is too sensitive to file at the institution, the Request for Administrative Remedy may be addressed directly to the Director of the Bureau of Prisons and mailed in the Prisoners' Mail Box. The inmate must give a "valid reason" to the Bureau for the direct filing.

When the institution's response is unsatisfactory to the inmate, he may appeal to the Director of the Bureau by means of the form Appeal/Response for Administrative Remedy (BP-DIR-10), sent through the Prisoners' Mail Box. The appeal is accompanied by a copy of the initial request with the institution's response; a receipt portion is detached and returned to the inmate when the appeal is received in Washington. The Bureau has 30 working days to reply to both appeals and to requests directed to it in the first instance. Extensions of institutional and Bureau time limits are permitted if the initial period is insufficient to make an adequate response. This decision is unilateral, but must be conveyed to the inmate in writing. A time limit that expires without a reply is deemed a denial.

At both the institutional and Bureau levels, the executive has chosen an aide to take primary responsibility for ensuring that complaints are answered properly within the time limits. This is a part-time additional duty for the aide.

5. *Program Scope:* All types of complaints may be made through the procedure.

Records of complaints handled at Atlanta are good. By the end of June 1974, 245 requests for administrative remedy had been submitted for the 9 to 10-month period of the procedure's operation.

More complaints had to do with jail time credit, sentence computation, and other legal matters of time to be served, than with any other subject. Disciplinary complaints were second most frequent. For the three-month period, April to June 1974, 15.5 percent of the complaints filed received a favorable response. About one out of five institutional responses is appealed to the Director.

6. *Illustrative Program Results:* Complaints regarding medical treatment received favorable responses more than half the time in the 3-month period for which such records were kept. The primary beneficiary of the Administrative Remedy Procedure may be the Federal court system. The ARP screens out some cases that would otherwise be appealed to district court, and those that are appealed have a written record that aids the inmate and respondent in defining the issues involved.

7. *Program Cost:* The cost of the ARP is hard to estimate. Its components–other than the cost of printing forms–are the partial salaries of the various officials who spend time responding to complaints, plus the cost of the clerical support they receive.

CALIFORNIA DEPARTMENT OF CORRECTIONS – Inmate Appeal Policy

1. *Authority:* Departmental Regulation, Administrative Bulletin No. 73/49 (October 17, 1973).

2. *Starting Date:* The policy was to be implemented on November 15, 1973, but many of the institutions in the department did not have approved procedures until February 1974. As of mid-1974, newly funded positions of Associate Superintendent for each institution were just being filled.

3. *Program Operations:*

Staff: An Associate Superintendent at each institution to operate and monitor the procedure. The two-person Appeal Section in the central office prepares responses for the Director, and also monitors institutional operation of the procedure.

Population served: Approximately 21,000 in 12 institutions and numerous forestry camps. The procedure is also available for use by parolees.

Institution visited: Correctional Training Facility at Soledad–2,500 men.

4. *Method of Operation:* An inmate with a complaint sends a written statement through the institutional mail system to the Associate Superintendent designated as the staff person to receive grievances. The Associate Superintendent then attempts to resolve the issue, with or without a meeting with the inmate concerned, and responds to the inmate within ten days. If the inmate is dissatisfied with this answer, he appeals to the institution head, who then has 15 days to respond. If dissatisfied with the institution head's response, final review is made by the Director, who has 20 days in which to respond. Any of the time limits can be extended unilaterally by the staff member involved at each level.

5. *Program Scope:* The sweep of the procedure is broad, extending to, "any departmental staff action or decisions which affect inmates' welfare and status." Grievances may be filed against interpretations of departmental regulations or against the regulations themselves.

6. *Illustrative Program Results:* The program was still quite new at the time it was observed by the Center, so results are difficult to measure. One inmate related that a policy change in the operation of the institution hospital was brought about by appealing a grievance to departmental review.

7. *Program Costs:* The department acknowledged that the only figures available from the institutions were inadequate and misleading. The major cost elements of the procedure are the salaries for the Associate Superintendents who have been appointed to operate the procedures in the institutions. Some portion of the expense for the Inmate Appeals Section must also be attributed to the procedure, but the chief of the section was unable to give us an accurate figure.

CALIFORNIA YOUTH AUTHORITY – Ward Grievance Procedure

1. *Authority:* Departmental Guidelines–"Principles, Ward Grievance Procedures" as revised July 12, 1974.

2. Starting Date: The procedure is to be implemented in all CYA institutions by June 30, 1975. The procedure was pilot-tested in one institution, the Karl Holton School beginning in September 1973, and since that time has been implemented in other CYA institutions.

3. *Program Operations:*

Staff: No additional full-time staff is required for operation of the procedure. The procedure does use a portion of the staff time for those who participate in first level hearings. For grievances appealed to a final level of outside review, staff participation, as well as that of the professional arbitrators is required.

Population served: The procedure will eventually be used in 16 CYA institutions and all parole regions. Total institutional population using the procedure will be approximately 4,200.

Institutions visited: Karl Holton School, Stockton, California, population approximately 370, and the Youth Training School, Chino, California, population approximately 1,000.

4. *Method of Operation:* A grievance is initiated by a ward completing a grievance form, either by himself or with the aid of a staff member or other ward, and by delivering the completed form to a ward clerk or any staff member. Once received, a first level hearing on the grievance must be held within 7 days. The first level committee is composed of an equal number of line staff and wards (two each at Karl Holton) with a neutral, non-voting chair person (generally management-level staff).

If the ward is dissatisfied with the recommendation of the grievance committee and appeals to the Super-

intendent, the latter has three days in which to respond in writing.

If the ward is dissatisfied with the response of the Superintendent (or Director, if the grievance is against a departmental policy), he may appeal to an outside review panel. This final level of outside review is composed of a volunteer arbitrator, a panel member chosen by the grievant, and a panel member chosen by the Superintendent (or Director). The panel conducts a hearing on the grievance within 15 days of the appeal, and provides a written decision to the grievant and the Superintendent or Director. The decision of the outside review panel is advisory only, but if the decision is not accepted, written reasons must be provided to the grievant.

5. *Program Scope:* A grievance is defined as a complaint about the substance or application of any written or unwritten policy of the California Youth Authority or any of its program units, or a complaint about any behavior or action directed toward a ward by staff or other wards.

6. *Illustrative Program Results:* Use of the grievance procedure has resulted in a number of policy clarifications and changes. One of the first grievances to go to outside arbitration involved the department's hair-cut policy. The panel's recommended change in policy was accepted by the Director.

7. *Program Costs:* A portion of the salaries of the staff members who sit as grievance committee members can be attributable to the procedure, but it is difficult to quantify the amount of time actually spent with the procedure. Also, some staff time is involved for those grievances which are appealed to the Superintendent and beyond. Up to this point, the time and travel expenses of the arbitrators has been donated. Presumably the CYA will be called upon eventually to pay arbitrators for their services.

CONNECTICUT – Ombudsman reporting to private organization

1. *Authority:* Written agreement between the Connecticut Department of Correction and the Hartford Institute of Criminal and Social Justice on September 12, 1973.

2. *Starting Date:* September 1973, following several months of negotiation between Department and Institute.

3. *Program Operations:*

Staff: Ombudsman, secretary. (Assistsnt ombudsman to be hired.)

Population served: Somers Correctional Institution–850; Hartford Community Corrections Center (jail)–427; eventually all department institutions.

Institution visited: Somers.

4. *Method of Operation:* The mechanics of the ombudsman program in Connecticut are simple. An inmate with a grievance fills out a form requesting an interview with the ombudsman and places it in a designated box. An interview follows in which the ombudsman rejects the complaint or agrees to investigate it. There is no appeal from the ombudsman's rejection of a complaint. In his investigations, the ombudsman has full and immediate access to all locations and personnel in the institution. When his investigation is complete, the ombudsman reports his findings and recommendations to the warden, who is free to accept or reject them. If the warden rejects his report, the ombudsman may, at his discretion, forward his report to the Commissioner of Corrections, and if he is dissatisfied with the Commissioner's disposition of the case, the ombudsman is free to take his report to the press and the public. The ombudsman goes to Somers twice a week and less frequently, but on a regular basis, to the jail.

5. *Program Scope:* All complaints from inmates are considered, including complaints about policies and procedures of the institution or department.

According to quarterly reports of the program, by mid-September 1974, after one year of operation, the ombudsman had received 315 complaints from Somers. Of these, 56 were in the process of investigation, 131 had been rejected without investigation or found by the ombudsman to be of no merit, 53 had been resolved without recommendation (i.e., the administration took action before the ombudsman's investigation was complete), nine had been resolved by the Department's acceptance of a formal recommendation from the ombudsman, and the remaining 66 had been closed by other means (inmate was transferred, withdrew his complaint in writing, etc.)

6. *Illustrative Program Results:* Department changed its criteria for furlough eligibility to enable inmates with consecutive sentences to be eligible for earlier furlough.

Department changed mail policy in every institution as a result of complaints at Somers. The new mail

regulations: outgoing mail may be put into an envelope and sealed by the inmate. Under certain circumstances, mail may be opened and inspected in the presence of an inmate; incoming and outgoing mail may be read only with the prior written authorization of the warden.

Rectification of injustices to individual inmates. A recent example was the removal from an inmate's record of a misconduct report on charges that had been dismissed in a disciplinary hearing.

7. *Program Cost:* The Connecticut ombudsman program, with one full-time ombudsman, a half-time secretary, office space, travel, postage, etc., costs about $30,000 per year. When an assistant is hired the program will be more expensive.

ILLINOIS – Grievance Procedure for Inmates

1. *Authority:* Statutory–Contained in Illinois Code of Corrections, Chapter 38, §1003-8-8. The Department of Corrections policy implementing the legislation is contained in Administrative Regulation 845.

2. *Starting Date:* The formal procedure was issued in October 1973.

3. *Program Operations:*

Staff: No full-time staff is required for the procedure. At each institution, a staff member is assigned as the Special Counselor, with responsibility for the operation of the procedure ancillary to his primary duties. Also, in each institution, the Institutional Inquiry Board, requires the services of three staff members on an intermittent basis. The IIB members also have other primary duties. Finally, a three-member Administrative Review Board, representing the highest level of appeal, makes intermittent use of two members of the department's staff and a person from the community.

Population served: Ten institutions with a combined population of approximately 6,000.

Institution visited: Correctional Center at Sheridan with a population of approximately 250.

4. *Method of Operations:* An inmate with a problem approaches the staff person designated as the Special Counselor. If this individual is not able to satisfactorily solve the inmate's problem, the inmate then can prepare a written complaint for the Institutional Inquiry Board. The IIB, which is to meet at least weekly, must give the inmate a hearing, and deliver a response within ten days to the Superintendent. The Superintendent then has five days in which to prepare a response for the inmate.

If the inmate is dissatisfied with the Superintendent's response, he can then submit his complaint to the Director of the Department. If the Director decides that the complaint has merit, he refers the complaint to the three-member Administrative Review Board. The ARB, which may conduct a hearing at the institution, forwards a recommendation to the Director, who then responds to the inmate.

5. *Program Scope:* The procedure is designed to resolve all inmate complaints, inquiries, problems and grievances, including appeals of decisions reached by institutional disciplinary boards.

6. *Illustrative Program Results:* At two of the largest Illinois institutions, the ARB currently overturns approximately 70 percent of the disciplinary decisions appealed to the Director.

One of the primary functions of the ARB has been to establish maximum punishments for institutional disciplinary panels. By routinely reducing excessive punishments, the ARB has changed policy without issuing a formal policy revision.

7. *Program Cost:* The primary cost of the procedure is the proportion of the salaries of the Special Counselors in each institution; the members of the IIB in each institution, and the salary, per diem (in the case of the community member); and travel costs of the ARB members attributable to the procedure. Accurate dollar figures were not available.

IOWA – Deputy for Corrections in Citizens' Aide Office, an ombudsman office for state government reporting to the Government

1. *Authority:* Deputy for Corrections ("Prison Ombudsman") hired under LEAA block grant as part of Citizens' Aide office established by the state legislature in March 1972. A predecessor of the Citizens' Aide program was set up by the Governor in October 1970.

2. *Starting Date:* The Deputy for Corrections was hired in September 1973.

3. *Program Operations:*

Staff: One ombudsman. Some clerical assistance is provided by the Citizens' Aide office.

Population served: All six adult and juvenile correctional institutions and all jails in Iowa.

Institution visited: Men's Reformatory at Anamosa–600 men.

4. *Method of Operation:* The ombudsman gets most of his complaints by mail. He also visits the two large male facilities weekly to see inmates and pick up complaints face to face. He conducts his investigations in person, by telephone, and through examinations of records. He makes an informal oral recommendation to the Warden, followed by a written recommendation if no action is taken within a reasonable period of time. He can appeal to the Commissioner of Adult Services, then the Commissioner of Social Services, and finally the Governor, if he is not satisfied with the response to his recommendation from the lower levels. Most of the grievances are handled within 30 days, although the law establishing the Citizens' Aide Office allows 60 days.

5. *Program Scope:* Primarily individual grievances of inmates, although these at times lead to recommendations for a change in policy or procedures.

In the quarter comprising the first three months of 1974, the ombudsman opened 62 cases, of which 37 were still open at the end of the quarter.

6. *Illustrative Program Results:* The ombudsman recommended to the Governor that an inmate who had served 45 years on a life sentence be granted a commutation. He was.

Following a suggestion by the ombudsman, the Parole Board began issuing denials of parole in writing, rather than orally. This practice has reduced the number of complaints against the Board.

Because of the poor records kept by the program and the uninformative nature of existing reports on the program, which list only where the complaints originate and how many are complete, it is difficult to give illustrative program results.

7. *Program Cost:* The annual budget, exclusive of rent and clerical help, is about $26,000. Of this amount, virtually all is for the ombudsman's salary and travel expenses around the state.

KANSAS – Departmental Grievance Procedure

1. *Authority:* Department order.

2. *Starting Date:* Approximately August 1972.

3. *Program Operations:*

Staff: None.

Population served: Adult prisoners–1,500 to 1,600.

Institution visited: Kansas State Penitentiary–Population 600.

4. *Method of Operation:* Inmates with a grievance, including disciplinary appeals, write a sealed letter to the Warden, who conducts an investigation and gives an answer. If the inmate is dissatisfied he writes to the Secretary of the Department who, in turn, investigates the complaint and delivers a written answer to the inmate. There are no time limits on the grievance procedure.

5. *Program Scope:* Any complaint may be made through the procedure.

No records are kept; hence, no estimates of numbers of complaints made through the procedure will be made.

6. *Illustrative Program Results:* None.

7. *Program Cost:* Minimal.

MARYLAND – Inmate Grievance Commission

1. *Authority:* Statutory, 41 M.C.A. ¶204 F (1965 Replacement Volume, 1973, Cumulative Supplement). Maryland Agency Rules contain an administrative description of the legislation at Public Safety and Correctional Services 12.07.00.00.

2. *Starting Date:* The Inmate Grievance Commission, (IGC) legislation was effective July 1, 1971.

3. *Program Operations:*

Staff: Full-time Executive Director, five Commissioners (who are paid per diem for days worked), a part-time law clerk, two full-time and one part-time clerical personnel.

Population served: All inmates of the Division of Correction and Patuxent Institution; approximately 5,000 inmates.

Institution visited: Maryland Penitentiary in Baltimore–Population 870.

4. *Method of Operation:* Inmates mail their written complaints to the Executive Director of the IGC in suburban Baltimore. They are logged in and investigated by the Executive Director and his law clerk, primarily by telephone. If preliminary review indicates the complaint is wholly lacking in merit, it may be dismissed. Investigation in large part consists of requesting that records be made available for Commission hearings. Hearings are scheduled at the major Maryland institutions about twice a month.

After the hearing, the Commission writes its decision, including a statement of its findings, its conclusion and a recommended disposition. It may dismiss the complaint at this stage, or write an order which may be affirmed, revised or modified by the Secretary of Public Safety and Correctional Service within 15 days. The Secretary's order is final. The warden or other person responsible for carrying out the order must report to the Secretary within 30 days the action he has taken to implement the order.

5. *Program Scope:* "Any person confined to an institution within the Division of Correction, or otherwise in the custody of the Commissioner of Correction, or confined to the Patuxent Institution, who has any grievance or complaint against any officials or employees of the Division of Correction or the Patuxent Institution, may submit such grievance or complaint to the Inmate Grievance Commission." 41 M.C.A. 204 F (d).

In 1974 the Commission received 731 grievances. Of these, 482 (65.9 percent) were dismissed administratively—because of lack of jurisdiction, withdrawal, informal resolution, etc. An average of 28 cases per month were heard, about a quarter of them resulting in orders favorable to the complainants.

6. *Illustrative Program Results:* Use of a restraining device called the claw was prohibited by the Secretary on the Commission's recommendation.

A number of complaints regarding discipline have led to a decision to set minimum and maximum penalties for offenses.

7. *Program Cost:* The 1974 appropriation for the IGC was $102,220, of which about $84,000, or 82 percent, was for salaries.

MINNESOTA – Ombudsman for Corrections reports to the Governor

1. *Authority:* The ombudsman program was established through Executive Order No. 14 (1972). Subsequently, legislation establishing the ombudsman was enacted (Minnesota Statutes 1971, Chapter 241.407 et. seq.).

2. *Starting Date:* Executive Order No. 14, February 1972. Legislation, July 1, 1973. Ombudsman took office in July 1972.

3. *Program Operations:*

Staff: Ombudsman, plus seven other full-time personnel and three part-time.

Population served: All Minnesota Department of Corrections inmates, both adults and juveniles, including at least 2,000 people.

Institution visited: Minnesota State Prison, Stillwater, population 640 men.

4. *Method of Operation:* Complaints may be initiated by telephone, written request or through an interested third party. In addition, a locked mailbox for complaints exists at each institution. Staff members go to the larger institutions regularly, e.g., someone goes to Stillwater at least three times each week. Complaints are investigated and recommendations are made to appropriate officials. If a superintendent rejects a recommendation, the ombudsman may take it to the Commissioner of Corrections. While, theoretically he may appeal rejection of a recommendation by the Commissioner to the Governor, the ombudsman had never done so as of mid-1974.

5. *Program Scope:* The ombudsman may handle complaints of any description. As a matter of policy, however, the Department would prefer that the ombudsman concentrate on policy matters and leave individual complaints to the grievance procedure the Department hopes to implement soon.

In the second six months of operation, when the full staff was on board, 545 complaints were lodged with the program. More complaints were about institutional policies than any other matters. Complaints about staff numbered only 59 (6%) of the 927 received in the first year.

6. *Illustrative Program Results:* The ombudsman persuaded the state to pay the cost of burying people who die while in the state's corrections system.

The ombudsman succeeded in getting the Department to have the inmate welfare fund audited by independent accountants annually.

The ombudsman also assisted in obtaining the agreement of the parole board to give written reasons for parole denials.

7. *Program Cost:* $126,000 per year for the eight full-time and three part-time staff and support expenses. This was expected to go to $161,000 in the next fiscal year.

NEW JERSEY – Office of Inmate Advocacy, part of the Department of the Public Advocate. Represents New Jersey parolees in revocation hearings and handles prisoners' class action suits against state, county and local governments.

1. *Authority:* Department of the Public Advocate Act of 1974, P.L. 1974, c.___, Ch. 27, Laws of New Jersey. (May 13, 1974).

2. *Starting Date:* June 1974.

3. *Program Operations:*

Staff: Parole Revocation Section: five attorneys; Inmate Advocacy Section: two attorneys. Clerical assistance. In addition, three inmate legal associates work in the three largest prisons to assist prisoners with legal actions regarding their incarceration.

Population served: All inmates of penal institutions, adult and juvenile. Total population: more than 6,000 inmates in state institutions and about 5,000 in county jails. In addition, all parolees threatened with revocation are potential clients of the program.

Institution visited: New Jersey State Penitentiary at Trenton–population 1,040.

4. *Method of Operation:* Both attorneys and investigators spend time in the institutions picking up cases by talking to inmates. Requests are also received through the mail, acknowledged immediately by letter, with a face-to-face interview taking place within two days. All staff are trained to attempt informal resolution of complaints. The attorneys look for patterns in the grievances filed to determine which subjects might be ripe for class action attack.

5. *Program Scope:* Legislation enacting the office of Inmate Advocacy describes the scope of the program as representing "the interests of inmates in such disputes and litigation, as will, in the discretion of the Public Defender, best advance the interests of inmates as a class...and may act as representative of inmates with any principal department or other instrumentality of state, county or local government."

The scope of the parole program is defined as, "the legal representation of any person on parole from a correctional institution of this State or otherwise under the parole supervision of this State who is charged with violation of that parole or who is under consideration for revocation of parole."

6. *Illustrative Program Result:* The program was too new to measure program results.

7. *Program Cost:* First year appropriations for the two programs total $360,000.

OHIO – Grievance Procedure for Residents

1. *Authority:* Department Administrative Regulation 845.

2. *Starting Date:* August 1972.

3. *Program Operations:*

Staff: A full-time Resident Liaison Officer (RLO) has been appointed at each institution to operate and monitor the procedure. The procedure also absorbs a portion of the time of the three members of the Institutional Inquiry Board (IIB) at each institution.

Each superintendent appoints a three-member IIB from among institutional staff. The only limitations on the appointments are that each IIB must have an officer of Lieutenant rank or higher, and one member on each IIB must be from the treatment staff.

Population served: Approximately 9,000 persons in seven institutions.

Institution visited: Correctional Institution at Lebanon, population approximately 1,400.

4. *Method of Operation:* The grievance procedure is initiated by contacting the RLO who then conducts an investigation. The RLO can resolve the dispute himself, make recommendations to the Superintendent, or refer the case to the IIB.

If the grievance is referred to the IIB, a hearing will be held at which the inmate has a right to appear. Within ten days of receiving the grievance, the IIB submits its recommendations to the Superintendent, who then advises the inmate within five days of any action to be

taken. If dissatisfied with the Superintendent's response, the inmate can then appeal to the Director. The procedure is non-specific as to any action the Director may take.

5. *Program Scope:* The scope of the grievance procedure is not defined in the administrative regulation, other than as a formal request for administrative action.

6. *Illustrative Program Results:* Results have varied from institution to institution. At Lebanon the procedure has helped to identify particular problem areas within the institution, for which corrective action has been taken. Two areas in which early changes were made were the kitchen/dining hall and the school.

7. *Program Costs:* For the grievance procedure, a full-time Resident Liaison Officer position has been funded in each of seven institutions. Each RLO earns between $11,066 and $13,146 a year. The total cost of the procedure is approximately $84,000.

Ohio – Departmental Ombudsman

1. *Authority:* Department Administrative Regulation 847.

2. *Starting Date:* August 1972. As of early 1975, the ombudsman program was discontinued.

3. *Program Operations:*

Staff: The ombudsman's office had a staff of four: a chief ombudsman, two deputies, and a secretary.

Population served: Approximately 9,000 persons in seven institutions.

Institution visited: Correctional Institution at Lebanon, population approximately 1,400.

4. *Method of Operation:* The ombudsman received some requests through the mail, other requests were picked up as the ombudsman and his two deputies visited institutions. Once a case reached the ombudsman, contact was made with the institution. Generally, if no effort was made to use the grievance procedure, the grievant was referred back to the institution.

The ombudsman had the responsibility of monitoring the grievance procedure. To aid this effort, the ombudsman was provided with copies of complaints filed at the institutions.

5. *Program Scope:* The ombudsman was charged with three primary responsibilities.

(a) to investigate inquiries or complaints of departmental staff or inmates,

(b) monitor administrative practices to ensure that they comply with Ohio law and department regulations, and

(c) self-initiate investigations into problems brought to the office from whatever source.

6. *Illustrative Program Results:* The ombudsman monitored the grievance procedure. Suggestions made about the operation of the procedure subsequently were adopted, including the establishment of full-time RLO's.

7. *Program Costs:* Total cost of the ombudsman office was approximately $45,000 per year. The major expense was salaries.

Note: As of the end of January 1975, the chief ombudsman retired and the program was terminated. The deputy ombudsmen were transferred to a different program, and the secretary was transferred to fill a vacancy elsewhere in the departmental office.

Cited as a principal reason for the termination was the fact that inmates used the ombudsman to bypass local management personnel with their problems, thereby circumventing institutional review of grievances where most problems could be resolved most efficiently and effectively.

OREGON – Institutional ombudsman reporting to the Superintendent, Oregon State Penitentiary.

1. *Authority:* Established by Superintendent.

2. *Starting Date:* 1971, following an election in which inmates selected the present ombudsman, Leroy Oliver, from a list of persons suggested by the Superintendent. Mr. Oliver had been a correctional officer.

3. *Program Operations:*

Staff: One full-time ombudsman, full-time inmate clerk.

Population served: 1,000 inmates of the State Penitentiary.

Institution visited: State Penitentiary.

4. *Method of Operation:* Ombudsman circulates throughout institution, is stopped by men with problems. He makes a few notes to himself, but, to ensure confidentiality, keeps no formal records of his caseload. His office is in the institution, at a crossing point for traffic to cellblocks and the outside. Investigations are made in person and by telephone.

5. *Program Scope:* There is no written statement of the ombudsman's scope of work. He operates primarily as a trouble-shooter, to cut red tape. Most of the problems appear to be individual matters.

There is no way to estimate how many cases the ombudsman handled or how many he may have resolved.

6. *Illustrative Program Results:* One apparently common result of a complaint regarding lack of contact with an inmate's family is permission to use the ombudsman's phone to call home. Oliver places the call. This is not strictly in keeping with institutional rules, but there is a strong policy in favor of maintaining family contacts.

Two staff members were fired after the ombudsman's investigation confirmed that they were physically abusing inmates.

7. *Program Cost:* The cost of the program is the salary of a senior correctional official and inmate pay for one clerk. Few supplies are used, and space is made available by the institution. Phone costs are an additional budget element.

RHODE ISLAND – National Prisoners' Reform Association

1. *Authority:* Formed with outside assistance to organize previously existing inmate groups into a coordinated body capable of representing the entire population. The outside help was provided from a local social action group, Providence Corporation.

2. *Starting Date:* The NPRA was incorporated in March, 1972, although it began operations several months earlier.

3. *Program Operations:*

Staff: The NPRA has several inmate officers working full-time on NPRA business, but uses little time of regular institutional staff. There is an "outside" component of free persons who have an office in Providence.

Population served: All adult state prisoners in Rhode Island–all of whom are incarcerated within a few miles of each other in or near Cranston, a suburb of Providence. Total inmates involved: about 500.

Institution visited: Adult Correctional Institution, Maximum Security Facility–330 men.

4. *Method of Operation:* The NPRA is not designed to act primarily as a grievance mechanism. It has a subgroup of members who have formed a grievance committee which, at the time of the Center's visit, had started to meet weekly with the Warden to discuss individual inmates' problems.

Problems with policies and procedures are handled informally by the NPRA "inside" officers through their contacts with administrative officials.

5. *Program Scope:* The NPRA was organized for purposes other than dealing with inmates' complaints while they are in prison. NPRA hopes to organize all prisoners across the country into a coalition that, among other things, will aid ex-prisoners in finding employment.

Grievances of individual inmates appear to have a low priority in the affairs of the NPRA. For this reason, and because meetings with the warden were not yet occurring on a regular basis, records of complaints that had been handled were inadequate to estimate the numbers of complaints resolved by the NPRA. Minutes of meetings with the warden mention that a problem was discussed, but give no results of earlier discussions.

6. *Illustrative Program Results:* The NPRA office inside the institution has two phone lines which, for a 15-cent charge, are made available to inmates.

NPRA has hired an inmate "pre-parole counselor" who by telephone assists men who will soon be released in finding employment.

7. *Program Cost:* The "inside" budget of the NPRA covers the monthly phone bill of about $600, the pay for the inmate pre-parole counselor ($8.00 per day), and supplies. It is unclear whether the officers are paid and how the NPRA newspaper is supported. Expenses are defrayed by the $2.00 annual membership fee.

The "external" part of the NPRA was at the time of the Center's visit awaiting response to a proposal to LEAA for $78,000 for coordinating NPRA activities.

SOUTH CAROLINA – Ombudsman office reports to Director of the Department of Corrections

1. *Authority:* Established administratively with LEAA block grant funds.

2. *Starting Date:* August 1972.

3. *Program Operations:*

Staff: Ombudsman, deputy ombudsman, three inmate liaison officers, all full-time. Two part-time (40%) inmate representatives, summer intern. Full-time secretary.

Population served: All inmates in the South Carolina Department of Corrections' 16 institutions, as well as those in community programs operated by Department. This number is growing rapidly as more and more county jails exercise their recently-given option to become a part of the state correctional system.

Institution visited: Central Correctional Institution in Columbia, population 1600 men.

4. *Method of Operation:* Three of the full-time personnel are assigned to institutions (including one–a former correctional officer–at CCI), where they hear and investigate grievances and represent inmates at disciplinary hearings. One part-time person is assigned to CCI. A major function of this person is to represent inmates at parole hearings.

In order to initiate a complaint, an inmate usually requests an interview with the ombudsman. At times, the ombudsman will initiate his own investigations of problems. Complaints from third persons now make up about a quarter of those received by the ombudsman. The staff investigates complaints and makes recommendations to the proper officials within the Department of Corrections. If the action taken is inadequate, the senior ombudsman makes a recommendation to the Director of the Department.

5. *Program Scope:* All complaints, whether about individuals' problems or policies and procedures of the Department, are within the ombudsman's jurisdiction.

Records of the program are incomplete, but the ombudsman estimates the number of new cases per month between 175 and 250. Because of the poor quality of the records, it is not known how many cases are closed or how long it takes to close them. The records of the program were in the process of being improved about the time of the Center's visit in June 1974.

6. *Illustrative Program Results:* Dinner time has been changed from 3:30 p.m. to 5:00 p.m. as a result of the program. Detainers are no longer an absolute bar to classification below maximum security.

7. *Program Cost:* The initial budget of the program was almost $73,000 for 12 months but it lasted 17 months, bringing the annual program cost down to about $51,500.

SOUTH CAROLINA – Inmate Advisory Council at Central Correctional Institution

1. *Authority:* Established by warden with encouragement from Director of Department.

2. *Starting Date:* 1967.

3. *Program Operations:*

Staff: Twenty inmates elected annually to represent living units. Each representative has an elected alternate. The departmental ombudsman attends every weekly meeting, the warden every other meeting.

Population served: 1600 inmates of Central Correctional Institution.

4. *Method of Operation:* Council meets every Friday morning. In meetings with the ombudsman alone, the IAC discusses problems and decides which ones to present to the warden in the following week's "open" meeting. The warden attempts to have a response to every request ready by the time of the next "open" meeting two weeks later. Once every quarter the Director attends an "open" meeting. He also attempts to respond to all requests within two to three weeks.

Minutes are prepared of every open meeting and printed in 500 copies within a week to 10 days and distributed to CCI inmates.

5. *Program Scope:* The IAC restricts its efforts to problems of concern to larger numbers of inmates. Individual complaints are rejected.

A review of several copies of minutes suggests that anywhere from five to fifteen problems are brought up in every open meeting. Some of these are repetitions of earlier issues not yet resolved.

6. *Illustrative Program Results:* Modification of dress regulations to allow inmates to wear their own colored shirts.

Extended hours for use of athletic field. Many inmates at CCI have no assignments and can use the additional outlet.

7. *Program Cost:* The elements of program cost are the time of staff members who attend the IAC meetings or who work on solutions to the problems presented, pay for the inmate representatives, and supplies (such as paper for printing 500 copies of the minutes biweekly).

WASHINGTON – Resident Government Council with written constitution

1. *Authority:* Mandated for all adult correctional institutions in 1969 by Secretary of the Department of Social and Health Services.

2. *Starting Date:* November 1970 (Constitution final in March 1971).

3. *Program Operations:*

Staff: Eleven inmates elected by the resident population in semi-annual election. The council provides for a Citizens' Advisory Committee of five outsiders from the Walla Walla area to meet regularly with RGC officers and the Superintendent to discuss institutional problems.

Population served: About 2,500 adult inmates of Washington State's four major correctional institutions. Each institution has its own written constitution regulating the operation of the resident government council.

Institution visited: Washington State Penitentiary (maximum security section)–800 men. The Center did not study the separate RGC of the 200-men minimum security institution which is also a part of the Penitentiary.

4. *Method of Operation:* The RGC meets weekly with the Superintendent for a "rap session" and once a month for an "Agenda Meeting," at which proposals are made to the Superintendent and answers given. At the time of the Center's visit, the RGC's biggest project was the design of a new constitution and planning for a realignment of all RGCs in the state into a new statewide organization to be incorporated as a nonprofit corporation. The residents had drawn up a proposed budget for funding the first year of operation of the new organization, which came to $550,000.

A subgroup of the RGC is the People's Action Committee (PAC) which handles individual complaints. The PAC meets weekly to discuss handling of individual problems members have dealt with in their living units.

The Citizens' and Staff Advisory Committee (CAC) meets weekly to "act as an ombudsman" according to one administrator. CAC members have passes for admittance to the institution at any time, but they have been asked specifically not to deal with individual problems, which are left to the PAC.

5. *Program Scope:* Individual problems are handled by PAC members (one for each living unit). There are no written responses to individual problems and no time limits. Policy and other broader matters handled by the RGC and CAC with the Superintendent are written up in minutes of the Agenda Meetings once a month.

It is not possible to estimate how many problems have been handled by the RGC and PAC.

6. *Illustrative Program Results:* The RGC has succeeded in extending time for use of the telephone by inmates by two hours. Visiting restrictions have been liberalized as a result of their activity.

7. *Program Cost:* The cost of the RGC program is the cost of the minimal amount of supplies used by the RGC and the time spent by the Superintendent in monthly CAC meetings and weekly RGC meetings.

Note: As of April 1, 1975, the Resident Government Council at Walla Walla was disbanded. The institutional administration attributed the demise to general dissatisfaction and noted that attempts were being made to design a substitute. It was noted that the new mechanism "will not be in any way like the format of the RGC."

WISCONSIN – Inmate Complaint Review System

1. *Authority:* Regulation, "Inmate Complaint Review System," Wisconsin Department of Health and Social Services, Division of Corrections, November 1972. The procedure was revised in January 1973.

2. *Starting Date:* November 19, 1972.

3. *Program Operations:*

Staff: At each institution one staff member (or more) is chosen to be an Institutional Complaint Investigator (ICI). A Corrections Complaint Examiner (CCE), a special Assistant Attorney General appointed by the Attorney General, reviews complaints. In addition, staff at the departmental level spends time reviewing complaints appealed to the Secretary of Health and Social Services. All staff, by the terms of the administrative regulation establishing the procedure, are to be furnished clerical services as needed.

Population served: All inmates of adult correctional institutions—about 2,500 people.

Institution visited: Wisconsin State Prison at Waupun, population 890.

4. *Method of Operation:* The inmate writes his complaint on form C-400. The written complaint is delivered in a sealed envelope to the full-time Institutional Complaint Investigator appointed from the staff by the Superintendent. The ICI screens all complaints within 24 hours to spot emergency cases. The ICI files a report on his investigation of each complaint with the warden within five days. The warden has 17 days to act and put his decision in writing (on form C-403) to the inmate and others involved.

The warden may refer the complaint to the Complaint Advisory Board, consisting of two staff members and two inmates, who must make a recommendation to the warden within 7 days. CAB members serve for 3 months.

Inmate (or staff member) may appeal to the Corrections Complaint Examiner, a Special Assistant Attorney General, appointed by the Attorney General. The latter has 45 days to act, with a possible extension of 30 days and may hold a hearing.

The CCE's recommendation is sent to the Division Administrator, who has 15 days, with a possible extension of 15 days, to respond in writing with notification to all parties.

The Administrator's decision can be appealed on form C-409 mailed in a sealed envelope to the Secretary of Health and Social Services. He has 30 days to act, with a possible extension of 30 days.

5. *Program Scope:* Complaints of all descriptions may be made through the procedure.

Presently from 250 to 375 complaints are filed each month throughout the system, 85% of them from Waupun. About 13% of these are appealed to the CCE, and about two percent of the total filed is appealed to the Secretary, Department of Health and Social Services.

6. *Illustrative Program Results:* More than 100 policies and procedures have been changed as a result of the Inmate Complaint System. Among these are the granting of permission to have radios and televisions in the cells, permission to smoke in the shops, and clarification of visiting and mail policies.

7. *Program Cost:* In 1975 there will be nine full-time ICIs in prisons throughout Wisconsin at approximately $13,000 per person. Given a figure of $117,000 for ICIs and $40,000 for the Attorney General's office, the total is $157,000, not counting the 25% of the Administrator's time, as well as the time wardens and people in the Secretary's office spend on it.

APPENDIX B

QUESTIONNAIRE AND TABULATED RESPONSES

CENTER FOR CORRECTIONAL JUSTICE

1616 H STREET, NORTHWEST
WASHINGTON, D.C. 20006
(202) 628-6094

The Center for Correctional Justice in Washington, D.C. is studying 15 prisons that are reported to have effective programs for handling inmates' complaints. This institution is one of the 15. You have been picked at random to help is find out how well inmates' grievances are handled here.

Feel free to answer honestly. Individual responses will *not* be shown to anyone at the institution, although we may provide a *summary* of the answers on request.

PLEASE DO NOT SIGN THIS SHEET.

1. How old are you? _____

2. How long have you been at this prison? (Count previous time if you are back as a parole violator) _____

3. How does this institution compare with others you've been in or heard about? This one is worse___, the same__, better__. Don't know__.

4. Generally speaking, does the staff at this institution care about how inmates are treated? Yes, very much__, Yes, somewhat__, Not really__.

5. Does the Superintendent/Warden care about how inmates are treated? Yes, very much__, Yes, somewhat__, Not really__.

6. How often do you see the Superintendent/Warden around the institution? Every day__, At least once a week__, At least once a month__, Less than once a month__.

7. What would you do if you had a serious complaint about an institutional policy? _____
_____
_____

8. What would you do if you were treated very unfairly by a staff member? _____
_____
_____

9. Is there a particular person designated to handle inmates' complaints? Yes__, No__. Don't know__. If yes, who is it? _____

10. Do you know anyone who has complained to this person? Yes__, No__.

    If yes, was the complaint handled promptly? Yes__, Sort of__, No__, Don't know__.

    Was the complaint handled fairly? Yes__, Sort of__, No__, Don't know__.

11. How much of the time do inmates who make serious complaints to staff get an answer? 0-25%__, 26-50%__, 51-75%__, 76-100%__.

12. How long does it usually take for an inmate to get an answer to his complaint? 0-2 days__, Less than a week__, Less than a month__, Longer than a month__, Don't know__.

13. If an inmate doesn't like the answer, can he appeal it? Yes__, No__, Don't know__.

14. Have you ever been given a *written* explanation of how to make a formal complaint? Yes__, No__, Don't know__.

    Have you ever been given an *oral* explanation of how to make a formal complaint? Yes__, No__, Don't know__.

15. If an inmate writes to the Commissioner (Director) of the Department, how long does it take to get an answer? Less than a week__, Less than a month__, Longer than a month__, Don't know__.

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances

	California		CYA-Holton		CYA-YTS		Connecticut		Illinois		Iowa	
	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.
Population	2600		400		1150		850		218		620	
Total No. of Questionnaires	106		52		50		64		21		52	
Date of Visit	6/74		11/74		11/74		4/74		6/74		5/74	
1. Age												
a. Mean	28.8		18.1		20.6		30		27.6		22.9	
b. Median	28.0		18.0		20.5		27		27.0		21.0	
c. Range	20-51		12-21		16-24		19-61		19-45		17-30	
d. No answer	1		—		—		—		—		—	
2. Length of Stay												
a. Mean	32 mos		9.0		17.2		26mos		17mos		20mos	
b. Median	24 mos		6.5		11.0		14mos		8mos		12mos	
c. Range	2-204 mos		1-48		1-72		1-132		3-180		2-78	
d. No answer	13		6		7		11		2		1	
3. Comparison												
a. Worse	55	51.9	16	30.8	32	64.0	30	46.9	3	14.3	5	9.6
b. Same	25	23.6	6	11.5	4	8.0	9	14.0	2	9.5	4	7.7
c. Better	2	1.9	22	42.3	3	6.0	10	15.6	14	66.7	20	38.5
d. No answer or DK	24	22.6	8	15.4	11	22.0	15	23.5	2	9.5	23	44.2
4. Staff Care												
a. Very much	3	2.8	10	19.2	2	4.0	3	4.6	3	14.3	7	13.5
b. Somewhat	16	15.1	20	38.5	7	14.0	10	15.6	10	47.6	17	32.7
c. No	87	82.1	22	42.3	40	80.0	50	76.6	8	38.1	28	53.8
d. No answer	0	—	0	—	0	—	2	3.1	—	0	—	0
5. Warden Care												
a. Very much	2	1.9	15	28.8	2	3.1	8	38.1	8	38.1	8	15.3
b. Somewhat	37	34.9	30	57.7	12	24.0	12	18.8	10	47.6	31	59.7
c. No	66	62.3	7	13.5	33	66.0	49	76.6	2	9.5	13	25.0
d. No answer	1	.9	0	—	3	6.0	1	1.6	1	4.8	0	—

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances

	Kansas		*Maryland*		*Minnesota*		*Ohio*		*Oregon*		*Rhode Island*	
	No.	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*
Population	630		869		640		1350		1009		300	
Total No. of Questionnaires	31		61		50		87		64		38	
Date of Visit	8/74		7/74		7/74		8/74		7/74		8/74	
1. Age												
a. Mean	34.4		31.8		30.3		22.3		33.1		26.4	
b. Median	31.0		29.0		28.0		22.0		31.0		25.0	
c. Range	22-54		19-61		21-56		17-30		20-60		20-44	
d. No answer	0		0		0		1		1		1	
2. Length of Stay												
a. Mean	68.2		48.9		21.3		7.6		41.9		29.1	
b. Median	58		36.0		10.0		6.0		16.0		23.0	
c. Range	9-186		2-276		1-204		3-23		1-240		1-120	
d. No answer	3		5		1		3		1		2	
3. Comparison												
a. Worse	16	51.6	53	86.9	13	26.0	13	14.9	10	15.6	11	28.9
b. Same	4	12.9	2	3.3	4	8.0	15	17.2	12	18.8	5	13.2
c. Better	1	3.2	0	—	10	20.0	35	40.2	21	32.8	8	21.1
d. No answer or DK	10	32.2	6	9.8	23	46.0	24	27.6	21	32.8	14	36.8
4. Staff Care												
a. Very much	0		2	3.3	0	—	6	6.9	5	7.8	0	
b. Somewhat	7	22.6	6	9.8	22	44.0	22	25.3	29	45.3	6	15.8
c. No	23	74.2	53	86.9	28	56.0	55	63.2	26	40.6	31	81.6
d. No answer	1	3.2	0		0		3	3.4	4	6.3	1	2.6
5. Warden Care												
a. Very much	3	9.7	1	1.6	1	2.0	11	12.6	21	32.8	0	
b. Somewhat	10	32.2	11	18.0	16	32.0	41	47.1	32	50.0	15	39.5
c. No	16	51.6	49	80.3	32	64.0	35	40.2	6	9.4	21	55.3
d. No answer	2	6.5	0	—	1	2.0	0	—	5	7.8	2	5.3

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances

	South Carolina		Washington		Wisconsin		Bureau of Prisons Atlanta	
	No.	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*
Population	1611		820		890		2089	
Total of Questionnaires	77		38		67		65	
Date of Visit	6/74		7/74		7/74		7/74	
1. Age								
a. Mean	29.4		31.4		30.8		40.3	
b. Median	27		27		28.5		38	
c. Range	20-57		23-60		22-70		26-69	
d. No answer	0		0		1		0	
2. Length of Stay								
a. Mean	37.0		27.3		35.7		37.3	
b. Median	30.0		13		18.5		26	
c. Range	1-180		1-144		2-240		2-180	
d. No answer	8		2		5		1	
3. Comparison								
a. Worse	29	37.7	9	23.7	33	49.3	12	18.5
b. Same	3	3.9	5	13.2	7	10.4	17	26.2
c. Better	6	7.8	13	34.2	5	7.5	20	30.8
d. No answer or DK	39	50.6	11	28.9	22	32.8	16	24.6
4. Staff Care								
a. Very much	5	6.5	1	2.6	4	6.0	9	13.8
b. Somewhat	12	15.6	12	31.6	18	26.9	19	29.2
c. No	54	70.1	24	63.2	45	67.2	34	52.3
d. No answer	6	7.8	1	2.6	0	—	3	4.6
5. Warden Care								
a. Very much	7	9.1	2	5.3	6	9.0	7	10.8
b. Somewhat	24	31.2	21	55.3	17	25.4	35	53.8
c. No	40	51.9	13	34.2	43	64.2	20	30.8
d. No answer	6	7.8	2	5.3	1	1.5	3	4.6

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Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances—Continued

	California		*CYA-Holton*		*CYA-YTS*		*Connecticut*		*Illinois*		*Iowa*	
	No.	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*
6. How often see Warden												
a. Everyday	0	—	4	7.7	0		1	1.6	4	19.0	9	17.3
b. Once a week	1	0.9	25	48.1	6	12.0	9	14.1	11	52.4	27	51.9
c. Once a month	9	8.5	10	19.2	3	6.0	15	23.4	4	19.0	6	11.5
d. Less than once a month	92	87.7	13	25.0	39	68.0	33	51.6	2	9.5	8	15.4
e. No answer	3	2.8	0		2	4.0	6	9.4	0		2	3.9
9. Particular person												
a. Yes	46	43.4	36	69.2	27	54.0	40	62.5	12	57.1	29	55.7
b. No	27	25.5	4	7.7	6	12.0	17	26.6	5	23.8	8	15.3
c. No answer	30	28.3	1	1.9	14	28.0	7	10.9	0	—	15	29.0
d. DK	3	2.8	7	13.5	3	6.0			4	19.0	0	
10. Know anyone												
a. Yes	44	41.5	29	55.8	31	62.0	42	65.6	13	61.9	28	53.9
b. No	50	47.2	21	40.4	16	32.0	15	23.4	6	28.6	18	34.6
c. No answer	12	11.3	2	3.9	3	6.0	7	10.9	2	9.5	6	11.5
Handled promptly												
a. Yes	12	27.3	6	20.7	8	25.8	5	7.8	1	7.7	3	5.7
b. Sort of	9	20.5	8	27.6	6	19.4	7	10.9	4	30.8	9	17.3
c. No	12	27.3	6	20.7	12	38.7	20	31.3	5	38.5	16	30.8
d. DK	11	25.0	9	31.0	4	12.9	17	26.6	3	23.1	13	25.0
e. No answer	0		0	—	1	3.2	15	23.4	0		11	21.2
Handled fairly												
a. Yes	3	6.8	5	17.2	7	22.6	4	6.3	1	7.7	6	11.5
b. Sort of	6	13.6	9	31.0	5	16.1	5	7.8	2	15.4	11	21.1
c. No	23	52.3	3	10.3	11	35.5	23	35.9	7	53.8	13	25.0
d. DK	12	27.3	12	41.4	6	19.4	17	26.6	3	23.1	11	21.2
e. No answer	0		0		2	6.5	15	23.4	0	—	11	21.2
11. % of time get answer												
a. 0-25	64	60.4	17	32.7	28	56.0	33	51.6	5	23.8	19	36.5
b. 26-50	10	9.4	11	21.2	11	22.0	8	12.5	2	9.5	15	28.9
c. 51-75	3	2.8	10	19.2	3	6.0	4	6.3	5	23.8	7	13.5
d. 76-100	10	9.4	10	19.2	2	4.0	3	4.7	4	19.0	5	9.6
e. No answer	19	17.9	4	7.7	6	12.0	16	25.0	5	23.8	6	11.5

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances—Continued

	Kansas		Maryland		Minnesota		Ohio		Oregon		Rhode Island	
	No.	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*
6. How often see Warden												
a. Everyday	2	6.5	2	3.3	0	—	3	3.4	8	12.5	0	
b. Once a week	15	48.4	12	19.7	8	16.0	22	25.3	42	65.6	8	21.1
c. Once a month	4	12.9	22	36.1	8	16.0	24	27.6	10	15.6	6	15.8
d. Less than once a month	10	32.2	25	41.0	34	68.0	36	41.4	3	4.7	23	60.5
e. No answer	0		0		0	—	2	2.3	1	1.6	1	2.6
9. Particular person												
a. Yes	14	45.1	23	37.7	27	54.0	57	65.5	40	62.5	19	50.0
b. No	7	22.6	15	24.6	4	8.0	3	3.4	2	3.1	7	18.4
c. No answer	8	25.8	20	32.8	17	34.0	24	27.6	17	26.6	3	7.9
d. DK	2	6.5	3	4.9	2	4.0	3	3.4	5	7.8	9	23.7
10. Know anyone												
a. Yes	16	51.6	28	45.9	21	42.0	52	59.8	34	53.1	16	42.1
b. No	10	32.2	26	42.6	26	52.0	33	37.9	24	37.5	14	36.8
c. No answer	5	16.1	7	11.5	3	6.0	2	2.3	6	9.4	8	21.1
Handled promptly												
a. Yes	3	18.8	1	3.6	5	24.0	8	15.4	5	14.7	4	25.0
b. Sort of	2	12.5	3	10.7	2	10.0	6	11.5	14	41.2	7	43.8
c. No	9	56.3	20	71.4	12	60.0	28	53.8	8	23.5	3	18.8
d. DK	1	6.3	2	7.1	1	5.0	10	19.2	6	17.6	1	6.3
e. No answer	1	6.3	2	7.1	1	5.0	0		1	2.9	1	6.3
Handled fairly												
a. Yes	3	18.8	2	7.1	7	35.0	7	13.5	7	20.6	5	31.3
b. Sort of	1	6.3	3	10.7	2	10.0	4	7.7	6	17.6	8	50.0
c. No	10	62.5	18	64.3	9	45.0	26	50.0	11	32.4	2	12.5
d. DK	2	12.5	3	10.7	3	15.0	14	26.9	9	26.5	1	6.3
e. No answer	0		2	7.1	0	—	1	1.9	1	2.9	0	
11. % of time get answer												
a. 0-25	15	48.4	23	37.7	32	64.0	42	48.3	21	32.8	12	31.6
b. 26-50	4	12.9	12	19.7	7	14.0	13	14.9	7	10.9	5	13.2
c. 51-75	6	19.4	7	11.5	4	8.0	6	6.9	8	12.5	7	18.4
d. 76-100	1	3.2	5	8.2	2	4.0	11	12.6	5	7.8	4	10.5
e. No answer	5	16.1	14	23.0	5	10.0	15	17.2	23	35.9	10	26.3

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances—Continued

	South Carolina		Washington		Wisconsin		Bureau of Prisons Atlanta	
	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.
6. How often see Warden								
a. Everyday	5	6.5	0	—	1	1.5	7	10.8
b. Once a week	4	5.2	9	23.7	13	19.4	37	56.9
c. Once a month	6	7.8	7	18.4	21	31.3	6	9.2
d. Less than once a month	53	68.8	21	55.3	32	47.8	13	20.0
e. No answer	9	11.7	1	2.6	0		2	3.1
9. Particular person								
a. Yes	29	37.7	24	63.2	43	64.2	39	60.0
b. No	12	15.6	7	18.4	2	3.0	11	16.9
c. No answer	8	10.4	1	2.6	19	28.4	1	1.5
d. DK	28	36.4	6	15.8	3	4.5	14	21.5
10. Know anyone								
a. Yes	23	29.9	23	60.5	40	59.7	37	56.9
b. No	45	58.4	13	34.2	23	34.3	22	33.8
c. No answer	9	11.7	2	5.3	4	6.0	6	9.2
Handled promptly								
a. Yes	2	8.7	6	26.1	13	32.5	11	29.7
b. Sort of	4	17.4	9	39.2	8	20.0	6	16.2
c. No	10	43.5	4	17.4	14	35.0	16	43.2
d. DK	5	21.7	3	13.0	3	7.5	3	8.1
e. No answer	2	8.7	1	4.3	2	5.0	1	2.7
Handled fairly								
a. Yes	2	8.7	6	26.1	4	10.0	7	18.9
b. Sort of	5	21.7	8	34.8	8	20.0	5	13.5
c. No	9	39.1	6	26.1	21	52.5	19	51.4
d. DK	5	21.7	3	13.0	4	10.0	4	10.8
e. No answer	2	8.7	0	—	3	7.5	2	5.4
11. % of time get answer								
a. 0-25	31	40.3	15	39.5	21	31.3	18	27.7
b. 26-50	10	13.0	8	21.1	11	16.4	9	13.8
c. 51-75	8	10.4	6	15.8	3	4.5	8	12.3
d. 76-100	7	9.1	4	10.5	19	28.4	12	18.5
e. No answer	21	27.3	5	13.2	13	19.4	18	27.7

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances–Continued

	California		*CYA-Holton*		*CYA-YTS*		*Connecticut*		*Illinois*		*Iowa*	
	No.	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*
12. How long for answer?												
a. 0-2 days	5	4.7	3	5.8	3	6.0	3	4.7	1	4.8	8	15.4
b. < week	12	11.3	17	32.7	6	12.0	5	7.8	2	9.5	11	21.2
c. < month	17	16.0	18	34.6	12	24.0	12	18.0	10	47.6	9	17.3
d. > month	27	22.5	2	3.8	12	24.0	13	20.3	1	4.8	5	9.6
e. DK & No answer	45	42.5	12	23.1	17	34.0	31	48.4	7	33.3	19	36.5
13. Can inmate appeal?												
a. Yes	62	58.5	38	73.1	31	62.0	7	10.9	13	61.9	18	34.6
b. No	10	9.4	2	3.8	2	2.0	27	42.2	0	–	7	13.5
c. DK	28	26.4	11	21.2	14	28.0	23	35.9	6	28.6	22	42.3
d. No answer	6	5.7	1	1.9	3	6.0	6	9.4	2	9.5	5	9.6
14. *Written* explanation?												
a. Yes	40	37.7	19	36.5	15	30.0	21	32.8	14	66.7	6	11.5
b. No	56	52.8	28	53.8	27	54.0	39	60.9	7	33.3	40	77.0
c. DK	3	2.8	3	5.8	4	8.0	2	3.1	0	–	1	2.0
d. No answer	7	6.6	2	3.8	4	8.0	2	3.1	0	–	5	9.6
Oral?												
a. Yes	9	8.5	25	48.1	28	56.0	11	17.2	8	38.1	9	17.3
b. No	89	84.0	22	42.3	15	30.0	47	73.4	12	57.1	36	69.2
c. DK	2	1.9	4	7.7	4	8.0	1	1.6	0	–	3	5.8
d. No answer	6	5.7	1	1.9	3	6.0	5	7.8	1	4.8	4	7.7
15. Commissioner response												
a. < week	1	0.9	4	7.6	3	6.0	2	3.1	1	4.8	2	3.9
b. < month	13	12.3	11	21.1	15	30.0	15	23.4	6	28.6	5	9.6
c. >month	30	28.3	6	11.5	13	26.0	13	20.3	7	33.3	8	15.4
d. DK	55	51.9	29	55.8	16	32.0	23	35.9	7	33.3	33	63.4
e. No answer	7	6.6	2	3.8	3	6.0	11	17.2	0	–	4	7.7

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances—Continued

	Kansas		*Maryland*		*Minnesota*		*Ohio*		*Oregon*		*Rhode Island*	
	No.	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*
12. How long for answer?												
a. 0-2 days	0	—	1	1.6	1	2.0	8	9.2	1	1.6	1	2.6
b. < week	5	16.1	4	6.6	5	10.0	13	14.9	11	17.2	5	13.2
c. < month	10	32.2	7	11.5	9	18.0	17	19.5	14	21.9	5	13.2
d. > month	9	29.0	23	37.7	15	30.0	10	11.5	10	15.6	7	18.4
e. DK & No answer	7	22.6	26	42.6	20	40.0	39	44.8	28	43.8	20	52.6
13. Can inmate appeal?												
a. Yes	11	35.5	25	41.0	13	26.0	35	43.7	25	39.1	13	34.2
b. No	6	19.4	8	13.1	13	26.0	16	18.4	7	10.9	6	15.8
c. DK	11	35.5	24	39.3	23	46.0	29	33.3	23	35.9	12	31.6
d. No answer	3	9.7	4	6.6	1	2.0	4	4.6	9	14.1	7	18.4
14. *Written* explanation?												
a. Yes	2	6.5	6	9.8	3	6.0	24	27.6	11	17.2	3	7.9
b. No	28	90.3	53	86.9	44	88.0	54	62.1	46	71.9	30	78.9
c. DK	1	3.2	1	1.6	3	6.0	6	69.0	4	6.3	1	2.6
d. No answer	0	—	1	1.6	0	—	3	3.4	3	4.7	4	10.5
Oral?												
a. Yes	3	9.7	5	8.2	8	16.0	27	31.0	15	23.4	4	10.5
b. No	27	87.1	55	90.2	41	82.0	55	63.2	42	65.6	29	76.3
c. DK	1	3.2	0	—	1	2.0	3	3.4	3	4.7	1	2.6
d. No answer	0	—	1	1.6	0	—	2	2.3	4	6.3	4	10.5
15. Commissioner response												
a. < week	3	9.7	3	4.9	0	—	8	9.2	3	4.7	1	2.6
b. < month	7	22.6	13	21.3	12	24.0	8	9.2	12	18.8	1	2.6
c. > month	8	25.8	22	36.1	9	18.0	6	6.9	12	18.8	12	31.6
d. DK	9	29.0	21	34.4	28	56.0	61	70.1	32	50.0	20	52.6
e. No answer	4	12.9	2	3.3	1	2.0	4	4.6	5	7.8	4	10.5

Tabulated Responses to Questionnaire on Programs for Handling Inmates' Grievances—Continued

	South Carolina		Washington		Wisconsin		Bureau of Prisons Atlanta	
	No.	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*	*No.*	*Pct.*
12. How long for answer?								
a. 0-2 days	3	3.9	1	2.6	4	6.0	5	7.7
b. < week	7	9.1	7	18.4	15	22.4	14	21.5
c. < month	17	22.1	3	7.9	16	23.9	11	16.9
d. > month	15	19.5	4	10.5	4	6.0	10	15.4
e. DK & No answer	35	45.5	23	60.5	28	41.8	25	38.5
13. Can inmate appeal?								
a. Yes	22	28.6	15	39.5	43	64.2	24	36.9
b. No	19	24.7	8	21.1	7	10.4	19	29.2
c. DK	28	36.4	14	36.8	14	20.9	18	27.7
d. No answer	8	10.4	1	2.6	3	4.5	4	6.2
14. *Written* explanation?								
a. Yes	6	7.8	6	15.8	20	29.9	13	20.0
b. No	59	76.6	32	84.2	43	64.2	49	75.4
c. DK	4	5.2	0	—	2	3.0	3	4.6
d. No answer	8	10.4	0	—	2	3.0	0	—
Oral?								
a. Yes	18	23.4	12	31.6	20	29.9	17	26.2
b. No	50	64.9	24	63.2	43	64.2	46	70.8
c. DK	1	1.3	2	5.3	2	3.0	0	—
d. No answer	8	10.4	0	—	2	3.0	2	3.1
15. Commissioner response								
a. < week	7	9.1	1	2.6	3	4.5	1	1.5
b. < month	18	23.4	6	15.8	12	17.9	11	16.9
c. > month	9	11.7	8	21.1	16	23.9	13	20.0
d. DK	34	44.2	23	60.5	33	49.3	34	52.3
e. No answer	9	11.7	0	—	3	4.5	6	9.2

Appendix C

SAMPLE TRAINING MATERIALS AND CASE STUDIES

1. California Youth Authority Ward Grievance Procedure Training Materials

   Agenda for Initial Training Session
   Lesson Outline
   Teaching Aides
   Breakdown of Roles
   Role Playing Simulations
   Grievance Procedure Quiz
   Living Unit Implementation Plan

2. Wisconsin Inmate Complaint Review System: A Case Study

3. Minnesota Ombudsman for Corrections: Two Case Studies

   Special Investigation
   Standard Investigation

4. California Youth Authority Ward Grievance Procedure: Arbitration Opinions (Awards)

   Theft of Personal Effects
   Furlough Program and Controlled Movement
   Disciplinary Process

"Copies of Appendix C are available from the Center for Correctional Justice, 1616 H Street, N.W., Suite 505, Washington, D.C. 20006."

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PRESCRIPTIVE PACKAGE: "GRIEVANCE MECHANISMS IN CORRECTIONAL INSTITUTIONS"

To help LEAA better evaluate the usefulness of Prescriptive Packages, the reader is requested to answer and return the following questions.

1. What is your general reaction to this Prescriptive Package?
   [ ] Excellent [ ] Above Average [ ] Average [ ] Poor [ ] Useless

2. Does this package represent best available knowledge and experience?
   [ ] No better single document available
   [ ] Excellent, but some changes required (please comment)
   [ ] Satisfactory, but changes required (please comment)
   [ ] Does not represent best knowledge or experience (please comment)

3. To what extent do you see the package as being useful in terms of: (check one box on each line)

	Highly Useful	Of Some Use	Not Useful
Modifying existing projects	[ ]	[ ]	[ ]
Training personnel	[ ]	[ ]	[ ]
Adminstering on-going projects	[ ]	[ ]	[ ]
Providing new or important information	[ ]	[ ]	[ ]
Developing or implementing new projects	[ ]	[ ]	[ ]

4. To what specific use, if any, have you put or do you plan to put this particular package?
   [ ] Modifying existing projects
   [ ] Administering on-going projects
   [ ] Others:
   [ ] Training personnel
   [ ] Developing or implementing new projects

5. In what ways, if any, could the package be improved: (please specify), e.g. structure/organization; content/coverage; objectivity; writing style; other)

6. Do you feel that further training or technical assistance is needed and desired on this topic? If so, please specify needs.

7. In what other specific areas of the criminal justice system do you think a Prescriptive Package is most needed?

8. How did this package come to your attention? (check one or more)
   [ ] LEAA mailing of package
   [ ] Contact with LEAA staff
   [ ] LEAA Newsletter
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